

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1092

Introduced by Assembly Member Daucher

February 22, 2005

An act to amend ~~Section 56330~~ of Sections 56000, 56001, 56020, 56041.5, 56042, 56045, 56046, 56050, 56055, 56100, 56101, 56127, 56128, 56135, 56136, 56140, 56145, 56146, 56150, 56155, 56155.5, 56156, 56156.4, 56156.6, 56157, 56162, 56163, 56165, 56167, 56167.5, 56168, 56192, 56193, 56195.1, 56195.7, 56195.8, 56205, 56211, 56212, 56241, 56243, 56244, 56300, 56301, 56302, 56322, 56324, 56326, 56327, 56329, 56330, 56337.5, 56341.2, 56341.5, 56342, 56342.1, 56342.5, 56343, 56344, 56345.1, 56352, 56360, 56361, 56362, 56362.5, 56362.7, 56365, 56366, 56366.1, 56366.2, 56366.3, 56366.4, 56366.5, 56367, 56368, 56382, 56383, 56390, 56391, 56392, 56425, 56425.5, 56426.1, 56426.2, 56426.25, 56426.3, 56426.4, 56426.5, 56426.6, 56426.7, 56426.8, 56427, 56428, 56429, 56430, 56431, 56432, 56435, 56440, 56441, 56441.1, 56441.2, 56441.3, 56441.5, 56441.6, 56441.7, 56441.8, 56441.13, 56441.14, 56442, 56443, 56445, 56447.1, 56449, 56452, 56454, 56456, 56460, 56461, 56462, 56470, 56475, 56500.2, 56500.3, 56500.4, 56501, 56502, 56505, 56505.1, 56505.2, 56507, 56520, 56521, 56523, 56601, 56836.16, 56836.17, 56836.18, 56836.20, 56836.23, 56838, 56841, 56845, 56850, 56851, 56852, 56853, 56864, 56867, 56875, 56876, 56877, 56878, 56879, 56881, 56883, 56884, and 56885 of, and to amend the heading of Article 2 (commencing with Section 56320) of Chapter 4 of Part 30 of, to add Sections 56320.2, 56334, 56339.1, 56339.2, 56341.3, 56426.81, 56440.1, 56440.2, 56440.3, 56440.4, 56440.5, 56440.6, 56462.1, 56502.1, and 56515 to, to repeal Sections 56021, 56021.1, 56022, 56023, 56024, 56025, 56026, 56026.1,

56026.2, 56026.5, 56027, 56028, 56029, 56030, 56030.5, 56031, 56032, 56033, 56034, 56035, 56043, 56171, 56172, 56173, 56174, 56174.5, 56175, 56176, 56177, 56302.5, 56323, 56346, and 56506 of, and to repeal and add Sections 56040, 56170, 56304, 56320, 56320.1, 56321, 56325, 56337, 56341, 56341.1, 56345, 56363, 56380, 56381, 56385, 56426, 56500.1 of, the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1092, as amended, Daucher. Special education: *conformity with federal law; procedures.*

Existing

(1) *Existing* law requires school districts, county offices of education, and special education local plan areas to comply with state laws that conform to the federal Individuals with Disabilities Education Act, in order that the state may qualify for federal funds available for the education of individuals with exceptional needs. Existing law requires school districts, county offices of education, and special education local plan areas to identify, locate, and assess individuals with exceptional needs and to provide those pupils with a free appropriate public education in the least restrictive environment, with special education and related services as reflected in an individualized education program.

~~Existing law requires each school district, special education local plan area, or county office of education to follow the procedures specified in federal law when interpreting assessment data for the purpose of determining if a child is an individual with exceptional needs.~~

~~This bill would make technical, nonsubstantive changes to that provision of law.~~

Existing law establishes a right of individuals with exceptional needs to receive free appropriate public education and ensures the right to special instruction and related services needed to meet their unique needs, in conformity with federal law.

This bill would make various revisions generally conforming state law to federal requirements relating to: pupil identification, assessment, and eligibility; individualized education program development, including notice, representation, and hearing

procedures and requirements; infant and toddler programs; and pupil data confidentiality, and would make other technical, nonsubstantive changes. To the extent that these revisions would impose new duties on local educational agencies, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 56330 of the Education Code is~~
2 ~~amended to read:~~

3 ~~56330. Each school district, special education local plan area,~~
4 ~~or county office of education shall follow the procedures in~~
5 ~~Section 300.535 of Part 300 of Title 34 of the Code of Federal~~
6 ~~Regulations when interpreting assessment data for the purpose of~~
7 ~~determining if a child is an individual with exceptional needs~~
8 ~~under Section 56026.~~

9 *SECTION 1. Section 56000 of the Education Code is*
10 *amended to read:*

11 *56000. The Legislature finds and declares that all individuals*
12 *with exceptional needs pupils with disabilities have a right to*
13 *participate in free appropriate public education and special*
14 *educational instruction and services for these persons are needed*
15 *in order to ensure the right to an appropriate educational*
16 *opportunity to meet their unique needs.*

17 *It is the intent of the Legislature to unify and improve special*
18 *education programs in California under the flexible program*
19 *design of the Master Plan for Special Education that this part not*
20 *abrogate any right provided to pupils with disabilities and their*
21 *parents or guardians under the federal Individuals with*
22 *Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is also*

1 *the intent of the Legislature that this part not set a higher*
2 *standard of educating pupils with disabilities than that*
3 *established by Congress under the federal Individuals with*
4 *Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is the*
5 *further intent of the Legislature to ensure that all individuals with*
6 ~~*exceptional needs*~~ *pupils with disabilities* are provided their
7 rights to appropriate programs and services ~~which~~ *that* are
8 designed to meet their unique needs under the *federal* Individuals
9 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

10 ~~It is the further intent of the Legislature that this part does not~~
11 ~~abrogate any right provided to individuals with exceptional needs~~
12 ~~and their parents or guardians under the Individuals with~~
13 ~~Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is also~~
14 ~~the intent of the Legislature that this part does not set a higher~~
15 ~~standard of educating individuals with exceptional needs than~~
16 ~~that established by Congress under the Individuals with~~
17 ~~Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).~~

18 ~~It is the further intent of the Legislature that the Master Plan~~
19 ~~for Special Education provide an educational opportunity for~~
20 ~~individuals with exceptional needs that is equal to or better than~~
21 ~~that provided prior to the implementation of programs under this~~
22 ~~part, including, but not limited to, those provided to individuals~~
23 ~~previously served in a development center for handicapped~~
24 ~~pupils.~~

25 ~~It is the intent of the Legislature that the restructuring of~~
26 ~~special education programs as set forth in the Master Plan for~~
27 ~~Special Education be implemented in accordance with this part~~
28 ~~by all school districts and county offices.~~

29 *SEC. 2. Section 56001 of the Education Code is amended to*
30 *read:*

31 56001. It is the intent of the Legislature that special education
32 programs provide all of the following:

33 (a) ~~Each individual with exceptional needs~~ *pupil with a*
34 *disability* is assured an education appropriate to his or her needs
35 in publicly supported programs through completion of his or her
36 prescribed course of study or until the time that he or she has met
37 proficiency standards prescribed.

38 (b) ~~By June 30, 1991, early~~ *Early* educational opportunities
39 shall be available to all children between the ages of three and
40 five years who require special education and services.

(c) Early educational opportunities shall be made available to children younger than three years of age pursuant to Chapter 4.4 (commencing with Section 56425), appropriate sections of this part, and the California Early Intervention Service Act, Title 14 (commencing with Section 95000) of the Government Code.

(d) Any child younger than three years, potentially eligible for special education, shall be afforded the protections provided pursuant to the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code and Section 1439 of Title 20 of the United States Code and implementing regulations.

(e) ~~Each individual with exceptional needs~~ *pupil with a disability* shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education that sets forth the elements of the programs in accordance with this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communication.

(g) ~~Individuals with exceptional needs~~ *Pupils with disabilities* are offered special assistance programs that promote maximum interaction with the general school population in a manner that is appropriate to the needs of both, taking into consideration, for hard-of-hearing or deaf ~~children~~ *pupils*, ~~the individual's pupil's~~ needs for a sufficient number of age and language mode peers and for special education teachers who are proficient in the ~~individual's pupil's~~ primary language mode.

(h) Pupils are transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for ~~individuals with exceptional needs~~ *pupils with disabilities*.

(j) Procedures and materials for ~~assessment~~ *evaluation* and placement of ~~individuals with exceptional needs~~ *pupils with disabilities* shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single

1 ~~assessment~~ *evaluation* instrument shall be the sole criterion for
2 determining placement of a pupil. The procedures and materials
3 for ~~assessment~~ *evaluation* and placement shall be in the
4 ~~individual's~~ *pupil's* mode of communication. Procedures and
5 materials for use with pupils of limited English proficiency, as
6 defined in subdivision (m) of Section 52163, shall be in the
7 ~~individual's~~ *primary language of the pupil*. All ~~assessment~~
8 *evaluation* materials and procedures shall be selected and
9 administered pursuant to Section 56320.

10 (k) Educational programs are coordinated with other public
11 and private agencies, including preschools, child development
12 programs, nonpublic nonsectarian schools, regional occupational
13 centers and programs, and postsecondary and adult programs for
14 ~~individuals with exceptional needs~~ *pupils with disabilities*.

15 (l) Psychological and health services for ~~individuals with~~
16 ~~exceptional needs~~ *pupils with disabilities* shall be available to
17 each schoolsite.

18 (m) Continuous evaluation of the effectiveness of these special
19 education programs by the school district, special education local
20 plan area, or county office shall be made to ensure the highest
21 quality educational offerings.

22 (n) Appropriate qualified staff are employed, consistent with
23 credentialing requirements, to fulfill the responsibilities of the
24 local plan and positive efforts are made to employ qualified
25 ~~disabled individuals~~ *pupils with disabilities*.

26 (o) Regular and special education personnel are adequately
27 prepared to provide educational instruction and services to
28 ~~individuals with exceptional needs~~ *pupils with disabilities*.

29 SEC. 3. Section 56020 of the Education Code is amended to
30 read:

31 56020. As used in this part, the definitions prescribed by this
32 ~~article~~ *part* apply, unless the context otherwise requires.

33 (a) "Board" means the State Board of Education.

34 (b) "County office" means office of the county superintendent
35 of schools.

36 (c) "Day" means a calendar day.

37 (d) "Department" means the State Department of Education.

38 (e) "District" means school district.

39 (f) "Pupil with a disability" means a child with mental
40 retardation, hearing impairments, speech or language

1 *impairments, visual impairments, serious emotional disturbance,*
2 *orthopedic impairments, autism, traumatic brain injury, other*
3 *health impairments, or specific learning disabilities, for whom*
4 *the following are applicable:*

5 *(1) The child, by reason of a condition specified in this*
6 *subdivision, needs special education and related services.*

7 *(2) The child comes within one of the following age*
8 *categories:*

9 *(A) Younger than three years of age and identified by the*
10 *district, the special education local plan area, or the county*
11 *office as requiring intensive special education and services, as*
12 *defined by the State Board of Education.*

13 *(B) Between the ages of three to five years, inclusive, and*
14 *identified by the district, the special education local plan area, or*
15 *the county office pursuant to Section 56441.11.*

16 *(C) Between the ages of five and 18 years, inclusive.*

17 *(D) Between the ages of 19 and 21 years, inclusive, and is*
18 *enrolled in or eligible for a program under this part or other*
19 *special education program prior to his or her 19th birthday, and*
20 *he or she has not yet completed his or her prescribed course of*
21 *study or has not met proficiency standards or has not graduated*
22 *from high school with a regular high school diploma, subject to*
23 *the following:*

24 *(i) A person who becomes 22 years of age during the months*
25 *of January to June, inclusive, while participating in a program*
26 *under this part may continue his or her participation in the*
27 *program for the remainder of the current fiscal year, including*
28 *any extended school year program for pupils with disabilities*
29 *established pursuant to regulations adopted by the State Board of*
30 *Education, pursuant to Article 1 (commencing with Section*
31 *56100) of Chapter 2.*

32 *(ii) Any person otherwise eligible to participate in a program*
33 *under this part shall not be allowed to begin a new fiscal year in*
34 *a program if he or she becomes 22 years of age in July, August,*
35 *or September of that new fiscal year. However, if a person is in a*
36 *year-round school program and is completing his or her*
37 *individualized education program in a term that extends into the*
38 *new fiscal year, then the person may complete that term.*

39 *(iii) Any person who becomes 22 years of age during the*
40 *months of October, November, or December while participating*

1 in a program under this part shall be terminated from the
2 program on December 31 of the current fiscal year, unless the
3 person would otherwise complete his or her individualized
4 education program at the end of the current fiscal year.

5 (iv) A school district, special education local plan area, or
6 county office of education may not develop an individualized
7 education program that extends these eligibility dates, and in no
8 event may a pupil be required or allowed to attend school under
9 the provisions of this part beyond these eligibility dates solely on
10 the basis that the pupil has not met his or her goals or objectives.

11 (3) Unless otherwise disabled within the meaning of this
12 subdivision, a pupil whose educational needs are due primarily
13 to limited English proficiency, a lack of instruction in reading or
14 mathematics, a temporary physical disability, social
15 maladjustment, or environmental, cultural, or economic factors
16 is not a pupil with a disability.

17 (4) For purposes of this part, "pupil with a disability" means
18 a child with a disability.

19 (g) (1) A pupil with a disability who graduates from high
20 school with a regular high school diploma is no longer eligible
21 for special education and related services.

22 (2) For purposes of this section, "regular high school
23 diploma" means a diploma conferred on a pupil who has
24 completed a prescribed course of study and has met the
25 standards of proficiency in basic skills prescribed by the
26 governing board of the school district.

27 (h) "Language mode" means the method of communication
28 used by hard-of-hearing or deaf pupils, or both, that may include
29 the use of sign language to send or receive messages, or the use
30 of spoken language, with or without visual signs or cues.

31 (i) "Low incidence disability" means a severe disabling
32 condition with an expected incidence rate of less than 1 percent
33 of the total statewide enrollment in kindergarten and grades 1 to
34 12, inclusive. For purposes of this definition, severe disabling
35 conditions include hearing impairments, vision impairments, and
36 severe orthopedic impairments, or any combination thereof. For
37 purposes of this definition, vision impairments do not include
38 disabilities within the function of vision specified in Section
39 56338.

1 (j) “Local plan” means a plan that meets the requirements of
2 Chapter 3 (commencing with Section 56205) and is submitted by
3 a school district, special education local plan area, or county
4 office.

5 (k) “Responsible local agency” means the school district or
6 county office designated in the local plan as the entity whose
7 duties shall include, but are not limited to, receiving and
8 distributing regionalized services or funds, providing
9 administrative support, and coordinating the implementation of
10 the plan.

11 (l) “Superintendent” means the Superintendent of Public
12 Instruction.

13 (m) “Nonpublic, nonsectarian school” means a private,
14 nonsectarian school that enrolls pupils with disabilities pursuant
15 to an individualized education program, employs at least one
16 full-time teacher who holds an appropriate credential
17 authorizing special education services, and is certified by the
18 department. It does not include an organization or agency that
19 operates as a public agency or offers public service, including,
20 but not limited to, a state or local agency, an affiliate of a state
21 or local agency, including a private, nonprofit corporation
22 established or operated by a state or local agency, or a public
23 university or college. A nonpublic, nonsectarian school also shall
24 meet standards as prescribed by the Superintendent and the State
25 Board.

26 (n) “Nonpublic, nonsectarian agency” means a private,
27 nonsectarian establishment or individual that provides related
28 services necessary for a pupil with a disability to benefit
29 educationally from the pupil’s educational program pursuant to
30 an individualized education program and that is certified by the
31 department. It does not include an organization or agency that
32 operates as a public agency or offers public service, including,
33 but not limited to, a state or local agency, an affiliate of a state
34 or local agency, including a private, nonprofit corporation
35 established or operated by a state or local agency, a public
36 university or college, or a public hospital. The nonpublic,
37 nonsectarian agency shall also meet standards as prescribed by
38 the Superintendent and State Board.

1 (o) “Consent,” as provided in subsection (b) of Section
2 300.500 of Title 34 of the Code of Federal Regulations, means all
3 of the following:

4 (1) The parent or guardian has been fully informed of all
5 information relevant to the activity for which consent is sought,
6 in his or her native language, or in other mode of
7 communication.

8 (2) The parent or guardian understands and agrees in writing
9 to the carrying out of the activity for which his or her consent is
10 sought, and the consent describes that activity and lists the
11 records, if any, that will be released and to whom.

12 (3) The parent or guardian understands that the granting of
13 consent is voluntary on the part of the parent or guardian and
14 may be revoked at any time. If a parent or guardian revokes
15 consent, that revocation is not retroactive to negate an action
16 that has occurred after the consent was given and before the
17 consent was revoked.

18 (p) The term “assistive technology device” means any item,
19 piece of equipment, or product system, whether acquired
20 commercially off the shelf, modified, or customized, that is used
21 to increase, maintain, or improve functional capabilities of a
22 pupil with a disability but does not include a medical device that
23 is surgically implanted, or the replacement of such a device.

24 (q) The term “assistive technology service” means any service
25 that directly assists a pupil with a disability in the selection,
26 acquisition, or use of an assistive technology device and includes
27 all of the following:

28 (1) The evaluation of the needs of the pupil, including a
29 functional evaluation of the pupil in the pupil’s customary
30 environment.

31 (2) Purchasing, leasing, or otherwise providing for the
32 acquisition of assistive technology devices by the pupil.

33 (3) Selecting, designing, fitting, customizing, adapting,
34 applying, maintaining, repairing, or replacing assistive
35 technology devices.

36 (4) Coordinating and using other therapies, interventions, or
37 services with assistive technology devices, such as those
38 associated with existing education and rehabilitation plans and
39 programs.

1 (5) *Training or technical assistance for the pupil, or, where*
2 *appropriate, the family of the pupil.*

3 (6) *Training or technical assistance for professionals*
4 *(including individuals providing education and rehabilitation*
5 *services), employers, or other individuals who provide services*
6 *to, employ, or are otherwise substantially involved in the major*
7 *life functions of the pupil.*

8 (r) *The term “core academic subjects” has the meaning given*
9 *the term in subsection (23) of Section 7801 of the federal*
10 *Elementary and Secondary Education Act of 1965 (20 U.S.C.*
11 *Sec. 6301 et seq.).*

12 (s) *The term “educational service agency” means the*
13 *following:*

14 (1) *A regional public multiservice agency that is both of the*
15 *following:*

16 (A) *Authorized by state law to develop, manage, and provide*
17 *services or programs to local educational agencies.*

18 (B) *Recognized as an administrative agency for purposes of*
19 *the provision of special education and related services provided*
20 *within public elementary schools and secondary schools of the*
21 *state.*

22 (2) *Any other public institution or agency having*
23 *administrative control and direction over a public elementary*
24 *school or secondary school.*

25 (t) *The term “elementary school” means a nonprofit*
26 *institutional day or residential school, including a public*
27 *elementary charter school, that provides elementary education,*
28 *as determined under state law.*

29 (u) *The term “equipment” includes all of the following:*

30 (1) *Machinery, utilities, and built-in equipment, and any*
31 *necessary enclosures or structures to house the machinery,*
32 *utilities, or equipment.*

33 (2) *All other items necessary for the functioning of a*
34 *particular facility as a facility for the provision of educational*
35 *services, including the following:*

36 (A) *Instructional equipment and necessary furniture.*

37 (B) *Printed, published, and audiovisual instructional*
38 *materials.*

39 (C) *Telecommunications, sensory, and other technological*
40 *aids and devices.*

1 (D) Books, periodicals, documents, and other related
2 materials.

3 (v) The term “excess costs” means those costs that are in
4 excess of the average annual per-pupil expenditure in a local
5 educational agency during the preceding school year for an
6 elementary school or secondary school pupil, as may be
7 appropriate, and which shall be computed after deducting:

8 (1) Amounts received under Part A (commencing with Sec.
9 6311) of Subchapter I, Part A (commencing with Sec. 6811) of
10 Subchapter III, and Part B (commencing with Sec. 6891) of
11 Subchapter III of the Elementary and Secondary Education Act
12 of 1965 (20 U.S.C. Sec. 6301 et seq.).

13 (2) Any state or local funds expended for programs that would
14 qualify for assistance under any of the parts specified in
15 paragraph (1).

16 (w) The term “free appropriate public education” means
17 special education and related services for which all of the
18 following are applicable:

19 (1) The special education and related services have been
20 provided at public expense, under public supervision and
21 direction, and without charge.

22 (2) The special education and related services meet the
23 standards of the department.

24 (3) The special education and related services include an
25 appropriate preschool, elementary school, or secondary school
26 education.

27 (4) The special education and related services are provided in
28 conformity with the individualized education program required
29 under subsection (d) of Section 1414 of Title 20 of the United
30 States Code.

31 (x) (1) For a special education teacher, the term “highly
32 qualified” has the meaning given the term in subsection (23) of
33 Section 7801 of the Elementary and Secondary Education Act of
34 1965 (20 U.S.C. Sec. 6301 et seq.), except that the term also
35 includes the option for teachers to meet the requirements of
36 subsection (23) of Section 7801 of the act by meeting the
37 requirements of paragraph (A), (B), or (C) of subsection (23) of
38 Section 7801 of the act.

1 (2) *If used with respect to any public elementary school or*
2 *secondary school special education teacher, the term “highly*
3 *qualified” means all of the following:*

4 (A) *The teacher has obtained full state certification as a*
5 *special education teacher (including certification obtained*
6 *through alternative routes to certification), or has passed the*
7 *state special education teacher licensing examination, and holds*
8 *a license to teach in the state as a special education teacher,*
9 *except that when used with respect to a teacher teaching in a*
10 *public charter school, the term means that the teacher meets the*
11 *requirements set forth in the Charter Schools Act of 1992 (Ch. 1*
12 *(commencing with Sec. 47600, Pt. 26.8)).*

13 (B) *The teacher has not had special education certification or*
14 *licensure requirements waived on an emergency, temporary, or*
15 *provisional basis.*

16 (C) *The teacher holds at least a bachelor’s degree.*

17 (3) *If used with respect to a special education teacher who*
18 *teaches core academic subjects exclusively to pupils who are*
19 *assessed against alternate achievement standards established*
20 *under the regulations promulgated under paragraph (1) of*
21 *subsection (b) of Section 6311 of the federal Elementary and*
22 *Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.),*
23 *the term means the teacher, whether or not new to the profession,*
24 *may do either of the following:*

25 (A) *Meet the applicable requirements of Section 7801 of the*
26 *federal Elementary and Secondary Education Act of 1965 (20*
27 *U.S.C. Sec. 6301 et seq.) for any elementary, middle, or*
28 *secondary school teacher who is new or not new to the*
29 *profession.*

30 (B) *Meet the requirements of paragraph (B) or (C) of*
31 *subsection (23) of Section 7801 of the act as applied to an*
32 *elementary school teacher, or, in the case of instruction above*
33 *the elementary level, has subject matter knowledge appropriate*
34 *to the level of instruction being provided, as determined by the*
35 *Superintendent, needed to effectively teach to those standards.*

36 (4) *If used with respect to a special education teacher who*
37 *teaches two or more core academic subjects exclusively to pupils*
38 *with disabilities, the term means that the teacher may meet either*
39 *of the following applicable requirements of subsection (23) of*
40 *Section 7801 of the federal Elementary and Secondary Education*

1 *Act of 1965 (20 U.S.C. Sec. 6301 et seq.) for any elementary,*
2 *middle, or secondary school teacher who is new or not new to the*
3 *profession:*

4 *(A) In the case of a teacher who is not new to the profession,*
5 *demonstrate competence in all the core academic subjects in*
6 *which the teacher teaches in the same manner as is required for*
7 *an elementary, middle, or secondary school teacher who is not*
8 *new to the profession under clause (ii) of paragraph (C) of*
9 *subsection (23) of Section 7801 of the Elementary and Secondary*
10 *Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.), which may*
11 *include a single, high objective uniform state standard of*
12 *evaluation covering multiple subjects.*

13 *(B) In the case of a new special education teacher who teaches*
14 *multiple subjects and who is highly qualified in mathematics,*
15 *language arts, or science, demonstrate competence in the other*
16 *core academic subjects in which the teacher teaches in the same*
17 *manner as is required for an elementary, middle, or secondary*
18 *school teacher under clause (ii) of paragraph (C) of subsection*
19 *(23) of Section 7801 of the Elementary and Secondary Education*
20 *Act of 1965 (20 U.S.C. Sec. 6301), which may include a single,*
21 *high objective uniform state standard of evaluation covering*
22 *multiple subjects, not later than two years after the date of*
23 *employment.*

24 *(5) Notwithstanding any other individual right of action that a*
25 *parent or pupil may maintain under this part, this part does not*
26 *create a right of action on behalf of an individual pupil or class*
27 *of pupils for the failure of the department or of the local*
28 *educational agency employee to be highly qualified.*

29 *(y) The term “homeless children” has the meaning given the*
30 *term “homeless children and youths” in the McKinney-Vento*
31 *Homeless Assistance Act (42 U.S.C. Sec. 11434a).*

32 *(z) The term “Indian” means an individual who is a member*
33 *of an Indian tribe.*

34 *(aa) The term “Indian tribe” means any federal or state*
35 *Indian tribe, band, rancheria, pueblo, colony, or community,*
36 *including any Alaskan native village or regional village*
37 *corporation, as defined in or established under the Alaska Native*
38 *Claims Settlement Act (43 U.S.C. Sec. 1601 et seq.).*

39 *(bb) The term “individualized education program” or “IEP”*
40 *means a written statement for each pupil with a disability that is*

1 *developed, reviewed, and revised in accordance with subsection*
2 *(d) of Section 1414 of Title 20 of the United States Code.*

3 *(cc) The term “individualized family service plan” has the*
4 *meaning given the term in Section 1436 of the federal Individuals*
5 *with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).*

6 *(dd) The term “infant or toddler with a disability” has the*
7 *meaning given the term in Section 1432 of the federal Individuals*
8 *with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).*

9 *(ee) The term “institution of higher education” has the*
10 *meaning given the term in subsection (b) of Section 1001 of the*
11 *Higher Education Act of 1965 (20 U.S.C. Sec. 1001 et seq.) and*
12 *also includes any community college receiving funding from the*
13 *Secretary of the Interior under the Tribally Controlled College or*
14 *University Assistance Act of 1978 (25 U.S.C. Sec. 1801 et seq.).*

15 *(ff) The term “limited English proficient” has the meaning*
16 *given the term in subsection (25) of Section 7801 of the*
17 *Elementary and Secondary Education Act of 1965 (20 U.S.C.*
18 *Sec. 7801 et seq.).*

19 *(gg) (1) The term “local educational agency” means the*
20 *governing board of a school district or other public authority*
21 *legally constituted within a state for either administrative control*
22 *or direction of, or to perform a service function for, public*
23 *elementary schools or secondary schools in a city, county,*
24 *township, school district, or other political subdivision of a state,*
25 *or for the combination of school districts or counties as are*
26 *recognized in a state as an administrative agency for its public*
27 *elementary schools or secondary schools.*

28 *(2) The term includes both of the following:*

29 *(A) An educational service agency.*

30 *(B) Any other public institution or agency having*
31 *administrative control and direction of a public elementary*
32 *school or secondary school.*

33 *(3) The term “BIA funded schools” includes an elementary*
34 *school or secondary school funded by the Bureau of Indian*
35 *Affairs, but only to the extent that the inclusion makes the school*
36 *eligible for programs for which specific eligibility is not provided*
37 *to the school in another provision of law and the school does not*
38 *have a pupil population that is smaller than the pupil population*
39 *of the local educational agency receiving assistance under this*
40 *part with the smallest pupil population, except that the school is*

1 *not subject to the jurisdiction of any state educational agency*
2 *other than the Bureau of Indian Affairs.*

3 *(hh) The term “native language” when used with respect to an*
4 *individual who is limited English proficient, means the language*
5 *normally used by the individual or, in the case of a child, the*
6 *language normally used by the parents of the child.*

7 *(ii) The term “nonprofit,” as applied to a school, agency,*
8 *organization, or institution, means a school, agency,*
9 *organization, or institution owned and operated by one or more*
10 *nonprofit corporations or associations, no part of the net*
11 *earnings of which inures, or may lawfully inure, to the benefit of*
12 *any private shareholder or individual.*

13 *(jj) The term “parent” means any of the following:*

14 *(1) A natural, adoptive, or foster parent of a child, unless a*
15 *foster parent is prohibited by state law from serving as a parent.*

16 *(2) A guardian, but not the state if the child is a ward of the*
17 *state.*

18 *(3) An individual acting in the place of a natural or adoptive*
19 *parent, including a grandparent, stepparent, or other relative,*
20 *with whom the child lives, or an individual who is legally*
21 *responsible for the child’s welfare.*

22 *(4) Except as used in paragraph (2) of subsection (b) of*
23 *Section 1415 and in paragraph (5) of subsection (a) of Section*
24 *1439 of the federal Individuals with Disabilities Education Act*
25 *(20 U.S.C. Sec. 1400 et seq.), an individual assigned under either*
26 *of those sections to be a surrogate parent.*

27 *(kk) The term “parent organization” has the meaning given*
28 *the term in paragraph (2) of subsection (a) of Section 1471 of the*
29 *federal Individuals with Disabilities Education Act (20 U.S.C.*
30 *Sec. 1471 et seq.).*

31 *(ll) The term “parent training and information center” means*
32 *a center assisted under Section 1471 or 1472 of the federal*
33 *Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400*
34 *et seq.).*

35 *(mm) (1) The term “related services” means transportation,*
36 *and such developmental, corrective, and other supportive*
37 *services, including speech-language pathology and audiology*
38 *services, interpreting services, psychological services, physical*
39 *and occupational therapy, recreation, including therapeutic*
40 *recreation, social work services, school nurse services designed*

1 to enable a pupil with a disability to receive a free appropriate
2 public education as described in the individualized education
3 program of the pupil, counseling services, including
4 rehabilitation counseling, orientation and mobility services, and
5 medical services, except that the medical services shall be for
6 diagnostic and evaluation purposes only, as may be required to
7 assist a pupil with a disability to benefit from special education,
8 and includes the early identification and evaluation of disabling
9 conditions in children.

10 (2) The term does not include a medical device that is
11 surgically implanted, or the replacement of that device.

12 (nn) The term “secondary school” means a nonprofit
13 institutional day or residential school, including a public
14 secondary charter school, that provides secondary education, as
15 determined under state law, except that it does not include any
16 education beyond grade 12.

17 (oo) The term “special education” means specially designed
18 instruction, at no cost to parents, to meet the unique needs of a
19 pupil with a disability, including both of the following:

20 (1) Instruction conducted in the classroom, in the home, in
21 hospitals and institutions, and in other settings.

22 (2) Instruction in physical education.

23 (pp) (1) The term “specific learning disability” means a
24 disorder in one or more of the basic psychological processes
25 involved in understanding or in using language, spoken or
26 written, which disorder may manifest itself in the imperfect
27 ability to listen, think, speak, read, write, spell, or do
28 mathematical calculations.

29 (2) The term includes the conditions as perceptual disabilities,
30 brain injury, minimal brain dysfunction, dyslexia, and
31 developmental aphasia.

32 (3) The term does not include a learning problem that is
33 primarily the result of visual, hearing, or motor disabilities, of
34 mental retardation, of emotional disturbance, or of
35 environmental, cultural, or economic disadvantage.

36 (qq) The term “state educational agency” means the State
37 Board of Education or other agency or officer primarily
38 responsible for the supervision of public elementary schools and
39 secondary schools, or, if there is no such officer or agency, an

1 officer or agency designated by the Governor or pursuant to
2 state law.

3 (rr) The term “supplementary aids and services” means aids,
4 services, and other supports that are provided in regular
5 education classes or other education-related settings to enable
6 pupils with disabilities to be educated with nondisabled pupils to
7 the maximum extent appropriate in accordance with Section
8 1412(a)(5) of Title 20 of the United States Code.

9 (ss) The term “transition services” means a coordinated set of
10 activities for a pupil with a disability that is all of the following:

11 (1) Designed to be within a results-oriented process, that is
12 focused on improving the academic and functional achievement
13 of the pupil with a disability to facilitate the pupil’s movement
14 from school to postschool activities, including postsecondary
15 education, vocational education, integrated employment,
16 including supported employment, continuing and adult
17 education, adult services, independent living, or community
18 participation.

19 (2) Based on the individual pupil’s needs, taking into account
20 the pupil’s strengths, preferences, and interests.

21 (3) Includes instruction, related services, community
22 experiences, the development of employment and other
23 postschool adult living objectives, and, when appropriate,
24 acquisition of daily living skills and functional vocational
25 evaluation.

26 (tt) The term “universal design” has the meaning given the
27 term in subsection (19) of Section 3002 of the Assistive
28 Technology Act of 1998 (29 U.S.C. Sec. 3001).

29 (uu) (1) The term “ward of the state” means a child who, as
30 determined by the state where the child resides, is a foster child,
31 is a ward of the state, or is in the custody of a public child
32 welfare agency.

33 (2) The term does not include a foster child who has a foster
34 parent who meets the definition of a parent in subsection (23) of
35 Section 1401 of the Individuals with Disabilities Education Act
36 (20 U.S.C. Sec. 1400 et seq.).

37 SEC. 4. Section 56021 of the Education Code is repealed.

38 ~~56021. “Board” means the State Board of Education.~~

39 SEC. 5. Section 56021.1 of the Education Code is repealed.

1 ~~56021.1. “Consent,” as provided in subsection (b) of Section~~
2 ~~300.500 of Title 34 of the Code of Federal Regulations, means all~~
3 ~~of the following:~~

4 ~~(a) The parent or guardian has been fully informed of all~~
5 ~~information relevant to the activity for which consent is sought,~~
6 ~~in his or her native language, or other mode of communication.~~

7 ~~(b) The parent or guardian understands and agrees in writing~~
8 ~~to the carrying out of the activity for which his or her consent is~~
9 ~~sought; and the consent describes that activity and lists the~~
10 ~~records, if any, that will be released and to whom.~~

11 ~~(c) The parent or guardian understands that the granting of~~
12 ~~consent is voluntary on the part of the parent or guardian and~~
13 ~~may be revoked at any time. If a parent or guardian revokes~~
14 ~~consent, that revocation is not retroactive to negate an action that~~
15 ~~has occurred after the consent was given and before the consent~~
16 ~~was revoked.~~

17 ~~SEC. 6. Section 56022 of the Education Code is repealed.~~

18 ~~56022. “County office” means office of the county~~
19 ~~superintendent of schools.~~

20 ~~SEC. 7. Section 56023 of the Education Code is repealed.~~

21 ~~56023. “Day” means a calendar day.~~

22 ~~SEC. 8. Section 56024 of the Education Code is repealed.~~

23 ~~56024. “Department” means the Department of Education.~~

24 ~~SEC. 9. Section 56025 of the Education Code is repealed.~~

25 ~~56025. “District” means school district.~~

26 ~~SEC. 10. Section 56026 of the Education Code is repealed.~~

27 ~~56026. “Individuals with exceptional needs” means those~~
28 ~~persons who satisfy all the following:~~

29 ~~(a) Identified by an individualized education program team as~~
30 ~~a child with a disability, as that phrase is defined in subparagraph~~
31 ~~(A) of paragraph (3) of Section 1401 of Title 20 of the United~~
32 ~~States Code.~~

33 ~~(b) Their impairment, as described by subdivision (a), requires~~
34 ~~instruction, services, or both, which cannot be provided with~~
35 ~~modification of the regular school program.~~

36 ~~(c) Come within one of the following age categories:~~

37 ~~(1) Younger than three years of age and identified by the~~
38 ~~district, the special education local plan area, or the county office~~
39 ~~as requiring intensive special education and services, as defined~~
40 ~~by the State Board of Education.~~

~~(2) Between the ages of three to five years, inclusive, and identified by the district, the special education local plan area, or the county office pursuant to Section 56441.11.~~

~~(3) Between the ages of five and 18 years, inclusive.~~

~~(4) Between the ages of 19 and 21 years, inclusive; enrolled in or eligible for a program under this part or other special education program prior to his or her 19th birthday; and has not yet completed his or her prescribed course of study or who has not met proficiency standards or has not graduated from high school with a regular high school diploma.~~

~~(A) Any person who becomes 22 years of age during the months of January to June, inclusive, while participating in a program under this part may continue his or her participation in the program for the remainder of the current fiscal year, including any extended school year program for individuals with exceptional needs established pursuant to regulations adopted by the State Board of Education, pursuant to Article 1 (commencing with Section 56100) of Chapter 2.~~

~~(B) Any person otherwise eligible to participate in a program under this part shall not be allowed to begin a new fiscal year in a program if he or she becomes 22 years of age in July, August, or September of that new fiscal year. However, if a person is in a year-round school program and is completing his or her individualized education program in a term that extends into the new fiscal year, then the person may complete that term.~~

~~(C) Any person who becomes 22 years of age during the months of October, November, or December while participating in a program under this act shall be terminated from the program on December 31 of the current fiscal year, unless the person would otherwise complete his or her individualized education program at the end of the current fiscal year.~~

~~(D) No school district, special education local plan area, or county office of education may develop an individualized education program that extends these eligibility dates, and in no event may a pupil be required or allowed to attend school under the provisions of this part beyond these eligibility dates solely on the basis that the individual has not met his or her goals or objectives.~~

1 ~~(d) Meet eligibility criteria set forth in regulations adopted by~~
2 ~~the board, including, but not limited to, those adopted pursuant to~~
3 ~~Article 2.5 (commencing with Section 56333) of Chapter 4.~~

4 ~~(e) Unless disabled within the meaning of subdivisions (a) to~~
5 ~~(d), inclusive, pupils whose educational needs are due primarily~~
6 ~~to limited English proficiency; a lack of instruction in reading or~~
7 ~~mathematics; — temporary — physical — disabilities; — social~~
8 ~~maladjustment; or environmental, cultural, or economic factors~~
9 ~~are not individuals with exceptional needs.~~

10 *SEC. 11. Section 56026.1 of the Education Code is repealed.*

11 ~~56026.1. (a) As provided in clause (i) of paragraph (3) of~~
12 ~~subsection (a) of Section 300.122 of Title 34 of the Code of~~
13 ~~Federal Regulations, an individual with exceptional needs who~~
14 ~~graduates from high school with a regular high school diploma is~~
15 ~~no longer eligible for special education and related services.~~

16 ~~(b) For purposes of this section and Section 56026, a “regular~~
17 ~~high school diploma” means a diploma conferred on a pupil who~~
18 ~~has completed a prescribed course of study and has met the~~
19 ~~standards of proficiency in basic skills prescribed by the~~
20 ~~governing board of the school district.~~

21 *SEC. 12. Section 56026.2 of the Education Code is repealed.*

22 ~~56026.2. “Language mode” means the method of~~
23 ~~communication used by hard-of-hearing and deaf children that~~
24 ~~may include the use of sign language to send or receive messages~~
25 ~~or the use of spoken language, with or without visual signs or~~
26 ~~cues.~~

27 *SEC. 13. Section 56026.5 of the Education Code is repealed.*

28 ~~56026.5. “Low incidence disability” means a severe disabling~~
29 ~~condition with an expected incidence rate of less than one~~
30 ~~percent of the total statewide enrollment in kindergarten through~~
31 ~~grade 12. For purposes of this definition, severe disabling~~
32 ~~conditions are hearing impairments, vision impairments, and~~
33 ~~severe orthopedic impairments, or any combination thereof. For~~
34 ~~purposes of this definition, vision impairments do not include~~
35 ~~disabilities within the function of vision specified in Section~~
36 ~~56338.~~

37 *SEC. 14. Section 56027 of the Education Code is repealed.*

38 ~~56027. “Local plan” means a plan that meets the~~
39 ~~requirements of Chapter 3 (commencing with Section 56205) and~~

1 that is submitted by a school district, special education local plan
2 area, or county office.

3 *SEC. 15. Section 56028 of the Education Code is repealed.*

4 56028. (a) “Parent,” includes any of the following:

5 (1) A person having legal custody of a child.

6 (2) Any adult pupil for whom no guardian or conservator has
7 been appointed.

8 (3) A person acting in the place of a parent, including a
9 grandparent or stepparent with whom the child lives. “Parent”
10 also includes a parent surrogate.

11 (4) A foster parent if the natural parents’ authority to make
12 educational decisions on the child’s behalf has been specifically
13 limited by court order in accordance with subsection (b) of
14 Section 300.20 of Title 34 of the Code of Federal Regulations.

15 (b) “Parent” does not include the state or any political
16 subdivision of government.

17 *SEC. 16. Section 56029 of the Education Code is repealed.*

18 56029. “Referral for assessment” means any written request
19 for assessment to identify an individual with exceptional needs
20 made by any of the following:

21 (a) A parent or guardian of the individual.

22 (b) A teacher or other service provider of the individual.

23 (c) A foster parent of the individual, consistent with the
24 limitations contained in federal law.

25 *SEC. 17. Section 56030 of the Education Code is repealed.*

26 56030. “Responsible local agency” means the school district
27 or county office designated in the local plan as the entity whose
28 duties shall include, but are not limited to, receiving and
29 distributing regionalized services funds, providing administrative
30 support, and coordinating the implementation of the plan.

31 *SEC. 18. Section 56030.5 of the Education Code is repealed.*

32 56030.5. “Severely disabled” means individuals with
33 exceptional needs who require intensive instruction and training
34 in programs serving pupils with the following profound
35 disabilities: autism, blindness, deafness, severe orthopedic
36 impairments, serious emotional disturbances, severe mental
37 retardation, and those individuals who would have been eligible
38 for enrollment in a development center for handicapped pupils
39 under Chapter 6 (commencing with Section 56800) of this part,
40 as it read on January 1, 1980.

1 *SEC. 19. Section 56031 of the Education Code is repealed.*

2 ~~56031. “Special education” means specially designed~~
3 ~~instruction, at no cost to the parent, to meet the unique needs of~~
4 ~~individuals with exceptional needs, whose educational needs~~
5 ~~cannot be met with modification of the regular instruction~~
6 ~~program, and related services, at no cost to the parent, that may~~
7 ~~be needed to assist these individuals to benefit from specially~~
8 ~~designed instruction.~~

9 ~~Special education is an integral part of the total public~~
10 ~~education system and provides education in a manner that~~
11 ~~promotes maximum interaction between children or youth with~~
12 ~~disabilities and children or youth who are not disabled, in a~~
13 ~~manner that is appropriate to the needs of both.~~

14 ~~Special education provides a full continuum of program~~
15 ~~options, including instruction conducted in the classroom, in the~~
16 ~~home, in hospitals and institutions, and in other settings; and~~
17 ~~instruction in physical education, to meet the educational and~~
18 ~~service needs of individuals with exceptional needs in the least~~
19 ~~restrictive environment.~~

20 ~~Individuals with exceptional needs shall be grouped for~~
21 ~~instructional purposes according to their instructional needs.~~

22 *SEC. 20. Section 56032 of the Education Code is repealed.*

23 ~~56032. “Individualized education program” means a written~~
24 ~~document described in Sections 56345 and 56345.1 for an~~
25 ~~individual with exceptional needs that is developed, reviewed,~~
26 ~~and revised in a meeting in accordance with Sections 300.340 to~~
27 ~~300.350, inclusive, of Title 34 of the Code of Federal~~
28 ~~Regulations and this part. It also means “individualized family~~
29 ~~service plan” as described in Section 1436 of Title 20 of the~~
30 ~~United States Code if the individualized education program~~
31 ~~pertains to an individual with exceptional needs younger than~~
32 ~~three years of age.~~

33 *SEC. 21. Section 56033 of the Education Code is repealed.*

34 ~~56033. “Superintendent” means the Superintendent of Public~~
35 ~~Instruction.~~

36 *SEC. 22. Section 56034 of the Education Code is repealed.*

37 ~~56034. “Nonpublic, nonsectarian school” means a private,~~
38 ~~nonsectarian school that enrolls individuals with exceptional~~
39 ~~needs pursuant to an individualized education program, employs~~
40 ~~at least one full-time teacher who holds an appropriate credential~~

1 ~~authorizing special education services, and is certified by the~~
2 ~~department. It does not include an organization or agency that~~
3 ~~operates as a public agency or offers public service, including,~~
4 ~~but not limited to, a state or local agency, an affiliate of a state or~~
5 ~~local agency, including a private, nonprofit corporation~~
6 ~~established or operated by a state or local agency, or a public~~
7 ~~university or college. A nonpublic, nonsectarian school also shall~~
8 ~~meet standards as prescribed by the superintendent and board.~~

9 *SEC. 23. Section 56035 of the Education Code is repealed.*

10 ~~56035. “Nonpublic, nonsectarian agency” means a private,~~
11 ~~nonsectarian establishment or individual that provides related~~
12 ~~services necessary for an individual with exceptional needs to~~
13 ~~benefit educationally from the pupils' educational program~~
14 ~~pursuant to an individualized education program and that is~~
15 ~~certified by the department. It does not include an organization or~~
16 ~~agency that operates as a public agency or offers public service,~~
17 ~~including, but not limited to, a state or local agency, an affiliate~~
18 ~~of a state or local agency, including a private, nonprofit~~
19 ~~corporation established or operated by a state or local agency, a~~
20 ~~public university or college, or a public hospital. The nonpublic,~~
21 ~~nonsectarian agency shall also meet standards as prescribed by~~
22 ~~the superintendent and board.~~

23 *SEC. 24. Section 56040 of the Education Code is repealed.*

24 ~~56040. (a) Every individual with exceptional needs, who is~~
25 ~~eligible to receive educational instruction, related services, or~~
26 ~~both under this part shall receive educational instruction,~~
27 ~~services, or both, at no cost to his or her parents or, as~~
28 ~~appropriate, to him or her. A free appropriate public education~~
29 ~~shall be available to individuals with exceptional needs in~~
30 ~~accordance with paragraph (1) of subsection (a) of Section 1412~~
31 ~~of Title 20 of the United States Code and Section 300.121 of~~
32 ~~Title 34 of the Code of Federal Regulations.~~

33 ~~(b) An individual, aged 18 through 21, who, in the educational~~
34 ~~placement prior to his or her incarceration in an adult~~
35 ~~correctional facility was not identified as being an individual~~
36 ~~with exceptional needs or did not have an individualized~~
37 ~~education program under this part, is not entitled to a free~~
38 ~~appropriate public education pursuant to clause (ii) of~~
39 ~~subparagraph (B) of paragraph (1) of subsection (a) of Section~~
40 ~~1412 of Title 20 of the United States Code.~~

1 *SEC. 25. Section 56040 is added to the Education Code, to*
2 *read:*

3 56040. All references to federal law in this part are
4 references to the federal Individuals with Disabilities Education
5 Act (20 U.S.C. Sec. 1400 et seq.) unless otherwise indicated.

6 *SEC. 26. Section 56041.5 of the Education Code is amended*
7 *to read:*

8 56041.5. ~~When an individual with exceptional needs a pupil~~
9 *with a disability* reaches the age of 18, with the exception of ~~an~~
10 ~~individual a pupil~~ who has been determined to be incompetent
11 under state law, ~~the local educational agency shall provide any~~
12 ~~notice of procedural safeguards required by this part to both the~~
13 ~~individual and the parents of the individual. All other all rights~~
14 accorded to a parent under this part shall transfer to the
15 ~~individual with exceptional needs pupil with a disability.~~ The
16 local educational agency shall notify the ~~individual pupil~~ and the
17 parent of the transfer of rights.

18 *SEC. 27. Section 56042 of the Education Code is amended to*
19 *read:*

20 56042. Notwithstanding any other provision of law, an
21 attorney or advocate for a parent of ~~an individual with~~
22 ~~exceptional needs a pupil with a disability~~ shall not recommend
23 placement in a nonpublic, nonsectarian school or agency with
24 which the attorney or advocate is employed or contracted, or
25 otherwise has a conflict of interest, or from which the attorney or
26 advocate receives a benefit.

27 *SEC. 28. Section 56043 of the Education Code is repealed.*

28 ~~56043. The primary timelines affecting special education~~
29 ~~programs are as follows:~~

30 ~~(a) A proposed assessment plan shall be developed within 15~~
31 ~~calendar days of referral for assessment, not counting calendar~~
32 ~~days between the pupil's regular school sessions or terms or~~
33 ~~calendar days of school vacation in excess of five schooldays~~
34 ~~from the date of receipt of the referral, unless the parent or~~
35 ~~guardian agrees, in writing, to an extension, pursuant to~~
36 ~~subdivision (a) of Section 56321.~~

37 ~~(b) A parent or guardian shall have at least 15 calendar days~~
38 ~~from the receipt of the proposed assessment plan to arrive at a~~
39 ~~decision, pursuant to subdivision (c) of Section 56321.~~

~~(e) A parent or guardian shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5.~~

~~(d) (1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's or guardian's written consent for assessment, unless the parent or guardian agrees, in writing, to an extension, pursuant to Section 56344.~~

~~(2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to paragraph (2) of subsection (b) of Section 300.343 of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.~~

~~(e) Beginning at age 14, or younger, if determined by the individualized education program team pursuant to paragraph (1) of subsection (b) of Section 300.347 of Title 34 of the Code of Federal Regulations, a statement of the transition service needs of the pupil shall be included in the pupil's individualized education program, pursuant to subdivision (a) of Section 56345.1, and shall be updated annually.~~

~~(f) Beginning at age 16 or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to subdivision (b) of Section 56345.1.~~

~~(g) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program meeting, pursuant to Section 3040 of Title 5 of the California Code of Regulations.~~

~~(h) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343, subdivision (a) of Section 56380, and Section 3068 of Title 5 of the California Code of Regulations.~~

1 ~~(i) A reassessment of a pupil shall be conducted at least once~~
2 ~~every three years or more frequently, if conditions warrant a~~
3 ~~reassessment and a new individualized education program to be~~
4 ~~developed, pursuant to Section 56381.~~

5 ~~(j) A meeting of an individualized education program team~~
6 ~~requested by a parent or guardian to review an individualized~~
7 ~~education program pursuant to subdivision (c) of Section 56343~~
8 ~~shall be held within 30 calendar days, not counting days between~~
9 ~~the pupil's regular school sessions, terms, or days of school~~
10 ~~vacation in excess of five schooldays, from the date of receipt of~~
11 ~~the parent's or guardian's written request, pursuant to Section~~
12 ~~56343.5.~~

13 ~~(k) The administrator of a local program under this part shall~~
14 ~~ensure that the pupil is immediately provided an interim~~
15 ~~placement for a period not to exceed 30 calendar days whenever~~
16 ~~a pupil transfers into a school district from a school district not~~
17 ~~operating programs under the same local plan in which he or she~~
18 ~~was last enrolled in a special education program pursuant to~~
19 ~~Section 56325.~~

20 ~~(l) The parent or guardian shall have the right and opportunity~~
21 ~~to examine all school records of the child and to receive copies~~
22 ~~within five calendar days after a request is made by the parent or~~
23 ~~guardian, either orally or in writing, pursuant to Section 56504~~
24 ~~and Chapter 6.5 (commencing with Section 49060) of Part 27.~~

25 ~~(m) Upon receipt of a request from an educational agency~~
26 ~~where an individual with exceptional needs has enrolled, a~~
27 ~~former educational agency shall send the pupil's special~~
28 ~~education records, or a copy thereof, within five working days,~~
29 ~~pursuant to subdivision (a) of Section 3024 of Title 5 of the~~
30 ~~California Code of Regulations.~~

31 ~~(n) The department shall do all of the following:~~

32 ~~(1) Have a time limit of 60 calendar days after a complaint is~~
33 ~~filed with the state education agency to investigate the complaint.~~

34 ~~(2) Give the complainant the opportunity to submit additional~~
35 ~~information about the allegations in the complaint.~~

36 ~~(3) Review all relevant information and make an independent~~
37 ~~determination as to whether there is a violation of a requirement~~
38 ~~of this part or Part B of the Individuals with Disabilities~~
39 ~~Education Act (20 U.S.C. Sec. 1400 et seq.).~~

1 ~~(4) Issue a written decision, pursuant to Section 300.661 of~~
2 ~~Title 34 of the Code of Federal Regulations.~~

3 ~~(e) A prehearing mediation conference shall be scheduled~~
4 ~~within 15 calendar days of receipt by the superintendent of the~~
5 ~~request for mediation, and shall be completed within 30 calendar~~
6 ~~days after the request for mediation, unless both parties to the~~
7 ~~prehearing mediation conference agree to extend the time for~~
8 ~~completing the mediation, pursuant to Section 56500.3.~~

9 ~~(p) Any request for a due process hearing arising from~~
10 ~~subdivision (a) of Section 56501 shall be filed within three years~~
11 ~~from the date the party initiating the request knew or had reason~~
12 ~~to know of facts underlying the basis for the request, pursuant to~~
13 ~~subdivision (j) of Section 56505.~~

14 ~~(q) The superintendent shall ensure that, within 45 calendar~~
15 ~~days after receipt of a written due process hearing request, the~~
16 ~~hearing is immediately commenced and completed, including~~
17 ~~any mediation requested at any point during the hearing process,~~
18 ~~and a final administrative decision is rendered, pursuant to~~
19 ~~subdivision (a) of Section 56502.~~

20 ~~(r) If either party to a due process hearing intends to be~~
21 ~~represented by an attorney in the due process hearing, notice of~~
22 ~~that intent shall be given to the other party at least 10 calendar~~
23 ~~days prior to the hearing, pursuant to subdivision (a) of Section~~
24 ~~56507.~~

25 ~~(s) Any party to a due process hearing shall have the right to~~
26 ~~be informed by the other parties to the hearing, at least 10~~
27 ~~calendar days prior to the hearing, as to what those parties~~
28 ~~believe are the issues to be decided at the hearing and their~~
29 ~~proposed resolution of those issues, pursuant to paragraph (6) of~~
30 ~~subdivision (c) of Section 56505.~~

31 ~~(t) Any party to a due process hearing shall have the right to~~
32 ~~receive from other parties to the hearing, at least five business~~
33 ~~days prior to the hearing, a copy of all documents, including all~~
34 ~~assessments completed and not completed by that date, and a list~~
35 ~~of all witnesses and their general area of testimony that the~~
36 ~~parties intend to present at the hearing, pursuant to paragraph (7)~~
37 ~~of subdivision (c) of Section 56505.~~

38 ~~(u) An appeal of a due process hearing decision shall be made~~
39 ~~within 90 calendar days of receipt of the hearing decision,~~
40 ~~pursuant to subdivision (i) of Section 56505.~~

1 ~~(v) When an individualized education program calls for a~~
2 ~~residential placement as a result of a review by an expanded~~
3 ~~individualized education program team, the individualized~~
4 ~~education program shall include a provision for a review, at least~~
5 ~~every six months, by the full individualized education program~~
6 ~~team of all of the following pursuant to paragraph (2) of~~
7 ~~subdivision (e) of Section 7572.5 of the Government Code:~~

8 ~~(1) The case progress.~~
9 ~~(2) The continuing need for out-of-home placement.~~
10 ~~(3) The extent of compliance with the individualized education~~
11 ~~program.~~

12 ~~(4) Progress toward alleviating the need for out-of-home care.~~
13 ~~(w) No later than the pupil's 17th birthday, a statement shall~~
14 ~~be included in the pupil's individualized education program that~~
15 ~~the pupil has been informed of his or her rights that will transfer~~
16 ~~to the pupil upon reaching 18 years of age pursuant to Section~~
17 ~~300.517 of Title 34 of the Code of Federal Regulations, Section~~
18 ~~56041.5, and paragraph (8) of subdivision (a) of Section 56345.~~

19 *SEC. 29. Section 56045 of the Education Code is amended to*
20 *read:*

21 56045. (a) ~~The superintendent~~ *Superintendent* shall send a
22 notice to the governing board of each local education agency
23 within 30 days of when the ~~superintendent~~ *Superintendent*
24 determines any of the following:

25 (1) The district, special education local plan area, or county
26 office is substantially out of compliance with one or more
27 significant provisions of this part, the implementing regulations,
28 provisions of the *federal* Individuals with Disabilities Education
29 Act (20 U.S.C. Sec. 1400 et seq.), or the implementing
30 regulations.

31 (2) The district, special education local plan area, or county
32 office fails to comply substantially with corrective action orders
33 issued by the department resulting from focused monitoring
34 findings or complaint investigations.

35 (3) The district, special education local plan area, or county
36 office fails to implement the decision of a due process hearing
37 officer for noncompliance with provisions of this part, the
38 implementing regulations, provisions of the *federal* Individuals
39 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or
40 the implementing regulations, which noncompliance results in

1 the denial of, or impedes the delivery of, a free and appropriate
2 public education for ~~an individual with exceptional needs~~ a pupil
3 with a disability.

4 (b) The notice shall provide a description of the special
5 education and related services that are required by law and with
6 which the district, special education local plan area, or county
7 office is not in compliance.

8 (c) Upon receipt of the notification sent pursuant to
9 subdivision (a), the governing board shall at a regularly
10 scheduled public hearing address the issue of noncompliance.

11 *SEC. 30. Section 56046 of the Education Code is amended to*
12 *read:*

13 56046. (a) An employee of a school district, county office of
14 education, or a special education local planning area may not
15 directly or indirectly use or attempt to use the official authority or
16 influence of the employee for the purpose of intimidating,
17 threatening, coercing, or attempting to intimidate, threaten, or
18 coerce, any person, including, but not limited to, a teacher, a
19 provider of ~~designated instruction and services~~ related services, a
20 paraprofessional, an instructional aide, a behavioral aide, a health
21 aide, other educators or staff of the local educational agency, a
22 private individual or entity under contract with the local
23 educational agency, or a subordinate of the employee, for the
24 purpose of interfering with the action of that person at any time,
25 to assist a parent or guardian of a pupil with ~~exceptional needs~~ a
26 disability to obtain services or accommodations for that pupil.

27 (b) If a person described in subdivision (a), believes an
28 employee or agent of a local educational agency is in violation of
29 subdivision (a) because of using or attempting to use official
30 authority or influence, that person may file a complaint under the
31 Uniform Complaint Procedures as set forth in Title 5 of the
32 California Code of Regulations. If a person files a complaint
33 pursuant to this subdivision, the state shall intervene directly and
34 the conditions for intervention in Section 4650 of Title 5 of the
35 California Code of Regulations are not applicable.

36 (c) This section does not limit or alter any right a person
37 described in subdivision (a) may have to file a complaint
38 pursuant to either a governing board-adopted grievance process
39 or a collectively bargained grievance process.

40 (d) This section does not do any of the following:

1 (1) Limit or alter the right or duty of a public school official to
2 direct or discipline an employee or contractor.

3 (2) Prevent a local educational agency from enforcing a law or
4 regulation regarding conflicts of interest, incompatible activities,
5 or the confidentiality of pupil records.

6 (e) (1) For the purposes of this section, “services or
7 accommodations” includes information that would assist a parent
8 or guardian to obtain a free appropriate public education for his
9 or her child as guaranteed by the federal Individuals with
10 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or other
11 services or accommodations guaranteed under Section 504 of the
12 Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 et seq.) and the
13 federal Americans with Disabilities Act (42 U.S.C. Sec. 12101 et
14 seq.), as well as state laws regarding ~~individuals with exceptional~~
15 ~~needs~~ *pupils with disabilities*.

16 (2) For the purpose of this section, “use of official authority or
17 influence” includes promising to confer or conferring any
18 benefit, affecting or threatening to affect any reprisal, or taking,
19 directing others to take, recommending, processing, or approving
20 any personnel action, including, but not limited to, appointment,
21 promotion, transfer, assignment, performance evaluation,
22 suspension, or other disciplinary action. “Use of official authority
23 or influence” does not include good faith advocacy by an
24 employee of a public school agency, to any person including
25 another agency employee or contractor, regarding the services, if
26 any, to be provided to a pupil under the laws referred to in
27 paragraph (1).

28 (f) This section does not diminish the rights, privileges, or
29 remedies of a public school employee under any other federal or
30 state law or under an employment contract or collective
31 bargaining agreement.

32 (g) A school employee’s or contractor’s assistance offered to a
33 parent or guardian of a pupil with ~~exceptional needs~~ *disabilities*
34 to obtain services or accommodations for that pupil may not
35 interfere with the school employee’s or contractor’s regular
36 duties for the local educational agency.

37 *SEC. 31. Section 56050 of the Education Code is amended to*
38 *read:*

1 56050. (a) For the purposes of this article, “surrogate parent”
2 shall be defined as it is defined in Section 300.515 of Title 34 of
3 the Code of Federal Regulations.

4 (b) A surrogate parent may represent ~~an individual with~~
5 ~~exceptional needs~~ *a pupil with a disability* in matters relating to
6 identification, ~~assessment~~ *evaluation*, instructional planning and
7 development, educational placement, reviewing and revising the
8 individualized education program, and in other matters relating to
9 the provision of a free appropriate education to the individual.
10 Notwithstanding any other provision of law, this representation
11 shall include the provision of written consent to the
12 individualized education program including nonemergency
13 medical services, mental health treatment services, and
14 occupational or physical therapy services pursuant to Chapter
15 26.5 (commencing with Section 7570) of Division 7 of Title 1 of
16 the Government Code. The surrogate parent may sign any
17 consent relating to individualized education program purposes.

18 (c) A surrogate parent shall be held harmless by the State of
19 California when acting in his or her official capacity, except for
20 acts or omissions which are found to have been wanton, reckless,
21 or malicious.

22 (d) A surrogate parent shall also be governed by Section
23 7579.5 of the Government Code.

24 *SEC. 32. Section 56055 of the Education Code is amended to*
25 *read:*

26 56055. (a) (1) Except as provided in subdivisions (b), (c),
27 and (d), a foster parent may exercise, to the extent permitted by
28 federal law, including, but not limited to, Section 300.20 of Title
29 34 of the Code of Federal Regulations, the rights related to his or
30 her foster child’s education that a parent has under Title 20
31 (commencing with Section 1400) of the United States Code and
32 pursuant to Part 300 (commencing with Section 300.1) of Title
33 34 of the Code of Federal Regulations. The foster parent may
34 represent the foster child for the duration of the foster
35 parent-foster child relationship in matters relating to
36 identification, ~~assessment~~ *evaluation*, instructional planning and
37 development, educational placement, reviewing and revising an
38 individualized education program, if necessary, and in all other
39 matters relating to the provision of a free appropriate public
40 education of the child. Notwithstanding any other provision of

law, this representation shall include the provision of written consent to the individualized education program, including nonemergency medical services, mental health treatment services, and occupational or physical therapy services pursuant to this chapter. The foster parent may sign any consent relating to individualized education program purposes.

(2) A foster parent exercising rights relative to a foster child under this section may consult with the parent or guardian of the child to ensure continuity of health, mental health, or other services.

(b) A foster parent who had been excluded by court order from making educational decisions on behalf of a pupil does not have the rights relative to the pupil set forth in subdivision (a).

(c) This section only applies if the juvenile court has limited the right of the parent or guardian to make educational decisions on behalf of the child, and the child has been placed in a planned permanent living arrangement pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, Section 366.26, or paragraph (5) or (6) of subdivision (b) of Section 727.3 of the Welfare and Institutions Code.

(d) For purposes of this section, a foster parent shall include a person, relative caretaker, or nonrelative extended family member as defined in Section 362.7 of the Welfare and Institutions Code, who has been licensed or approved by the county welfare department, county probation department, or the State Department of Social Services, or who has been designated by the court as a specified placement.

SEC. 33. Section 56100 of the Education Code is amended to read:

56100. The State Board of Education shall do all of the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

(b) Adopt criteria and procedures for the review and approval by the board of local plans.

(c) Adopt size and scope standards for determining the efficacy of local plans submitted by special education local plan areas, pursuant to subdivision (a) of Section 56195.1.

(d) Provide review, upon petition, to any district, special education local plan area, or county office that appeals a decision

1 made by the department that affects its providing services under
2 this part except a decision made pursuant to Chapter 5
3 (commencing with Section 56500).

4 (e) Review and approve a program evaluation plan for special
5 education programs provided by this part in accordance with
6 Chapter 6 (commencing with Section 56600). This plan may be
7 approved for up to three years.

8 (f) Recommend to the Commission on Teacher Credentialing
9 the adoption of standards for the certification of professional
10 personnel for special education programs conducted pursuant to
11 this part.

12 (g) Adopt regulations to provide specific procedural criteria
13 and guidelines for the identification of pupils as ~~individuals with~~
14 ~~exceptional needs~~ *pupils with disabilities*.

15 (h) Adopt guidelines of reasonable pupil progress and
16 achievement for ~~individuals with exceptional needs~~ *pupils with*
17 *disabilities*. The guidelines shall be developed to aid teachers and
18 parents or guardians in assessing an individual pupil's education
19 program and the appropriateness of the special education
20 services.

21 (i) In accordance with the requirements of federal law, adopt
22 regulations for all educational programs for ~~individuals with~~
23 ~~exceptional needs~~ *pupils with disabilities*, including programs
24 administered by other state or local agencies.

25 (j) Adopt uniform rules and regulations relating to parental
26 due process rights in the area of special education.

27 (k) Adopt rules and regulations regarding the ownership and
28 transfer of materials and equipment, including facilities, related
29 to transfer of programs, reorganization, or restructuring of special
30 education local plan areas.

31 (l) *Establish goals for the performance of pupils with*
32 *disabilities, as follows:*

33 (1) *The goals shall promote the purposes of this part and of*
34 *the federal Individuals with Disabilities Education Act (42 U.S.C.*
35 *Sec. 1400, et seq.), as stated in subsection (d) of Section 1401 of*
36 *Title 20 of the United States Code.*

37 (2) *The goals shall be the same as the state's definition of*
38 *adequate yearly progress, including the state's objectives for*
39 *progress by children with disabilities, under subparagraph (C) of*
40 *paragraph (2) of subsection (b) of Section 6311 of the*

1 *Elementary and Secondary Education Act of 1965 (20 U.S.C.*
2 *Sec. 6301 et seq.).*

3 *(3) The goals shall address graduation rates and dropout*
4 *rates, as well as other factors as the state may determine.*

5 *(4) The goals shall be consistent, to the extent appropriate,*
6 *with any other goals and standards for pupils established by the*
7 *state.*

8 *(m) Establish performance indicators the state will use to*
9 *assess progress toward achieving the goals described in*
10 *subdivision (l)), including measurable annual objectives for*
11 *progress by pupils with disabilities under Section*
12 *6311(b)(2)(C)(v)(II)(cc) of the Elementary and Secondary*
13 *Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.).*

14 *(n) Annually report to the secretary and the public on the*
15 *progress of the state, and of pupils with disabilities in the state,*
16 *toward meeting the goals established under subdivision (l), that*
17 *may include elements of the reports required under subsection*
18 *(h) of Section 6311 of the Elementary and Secondary Education*
19 *Act of 1965 (20 U.S.C. Sec. 6301 et seq.).*

20 *(o) Adopt the National Instructional Materials Accessibility*
21 *Standard for the purposes of providing instructional materials to*
22 *visually impaired persons or other persons with print disabilities,*
23 *in a timely manner after the publication of the National*
24 *Instructional Materials Accessibility Standard in the Federal*
25 *Register, subject to the following:*

26 *(1) If it chooses not to coordinate with the National*
27 *Instructional Materials Access Center, the State Board of*
28 *Education shall provide an assurance that the agency will*
29 *provide instructional materials to visually impaired persons or*
30 *other persons with print disabilities in a timely manner.*

31 *(2) If it chooses to coordinate with the National Instructional*
32 *Materials Access Center, not later than two years after the date*
33 *of enactment on December 3, 2004, of the amendments to the*
34 *federal Individuals with Disabilities Education Act (20 U.S.C.*
35 *Sec. 1400 et seq.), as added by Public Law Number 108-446, the*
36 *State Board of Education, as part of any print instructional*
37 *materials adoption process, procurement contract, or other*
38 *practice or instrument used for purchase of print instructional*
39 *materials, shall enter into a written contract with the publisher of*
40 *the print instructional materials to do either of the following:*

1 (A) Require the publisher to prepare and, on or before
2 delivery of the print instructional materials, provide to the
3 National Instructional Materials Access Center electronic files
4 containing the contents of the print instructional materials using
5 the National Instructional Materials Accessibility Standard.

6 (B) Purchase instructional materials from the publisher that
7 are produced in, or may be rendered in, specialized formats.

8 (3) In carrying out this subdivision, the State Board of
9 Education, to the maximum extent possible, shall work
10 collaboratively with the state agency responsible for assistive
11 technology programs.

12 (4) The following definitions apply for purposes of this
13 subdivision:

14 (A) The term “National Instructional Materials Access
15 Center” means the center established pursuant to subsection (e)
16 of Section 1474 of the federal Individuals with Disabilities
17 Education Act (20 U.S.C. Sec. 1400 et seq.).

18 (B) The term “National Instructional Materials Accessibility
19 Standard” has the meaning given the term in paragraph (B) of
20 subsection (e) of Section 1474 of the federal Individuals with
21 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

22 (C) The term “specialized formats” has the meaning given the
23 term in paragraph (D) of subsection (e) of Section 1474 of the
24 federal Individuals with Disabilities Education Act (20 U.S.C.
25 Sec. 1400 et seq.).

26 (p) Adopt policies and procedures designed to prevent the
27 inappropriate overidentification or disproportionate
28 representation by race and ethnicity of children as children with
29 disabilities, including children with disabilities with a particular
30 impairment described in Section 1402 of Title 20 of the United
31 States Code.

32 (q) Prohibit state and local educational agency personnel
33 from requiring a child to obtain a prescription for a substance
34 covered by the Controlled Substances Act (21 U.S.C. Sec. 801 et
35 seq.) as a condition of attending school, receiving an evaluation
36 under subsection (a) or (c) of Section 1414 of Title 20 of the
37 United States Code, or receiving services pursuant to this part.

38 (r) This subdivision does not create a state prohibition against
39 teachers and other school personnel consulting or sharing
40 classroom-based observations with parents or guardians

1 *regarding a pupil's academic and functional performance, or*
2 *behavior in the classroom or school, or regarding the need for*
3 *evaluation for special education or related services.*

4 *SEC. 34. Section 56101 of the Education Code is amended to*
5 *read:*

6 56101. (a) Any district, special education local plan area,
7 county office, or public education agency, as defined in Section
8 56500, may request the board to grant a waiver of any provision
9 of this code or regulations adopted pursuant to that provision if
10 the waiver is necessary or beneficial to the content and
11 implementation of the pupil's individualized education program
12 and does not abrogate any right provided ~~individuals with~~
13 ~~exceptional needs~~ *pupils with disabilities* and their parents or
14 guardians under the *federal* Individuals with Disabilities
15 Education Act (20 U.S.C. Sec. 1400 et seq.), or to the compliance
16 of a district, special education local plan area, or county office
17 with the Individuals with Disabilities Education Act (20 U.S.C.
18 Sec. 1400 et seq.), Section 504 of, the Rehabilitation Act of 1973
19 (29 U.S.C. Sec. 794), and federal regulations relating thereto.

20 (b) The board may grant, in whole or in part, any request
21 pursuant to subdivision (a) ~~when if~~ *if* the facts indicate that failure
22 to do so would hinder implementation of the pupil's
23 individualized education program or compliance by a district,
24 special education local plan area, or county office with federal
25 mandates for a free, appropriate education for ~~children or youth~~
26 *pupils with disabilities.*

27 *SEC. 35. Section 56127 of the Education Code is amended to*
28 *read:*

29 56127. The ~~superintendent~~ *Superintendent* shall make
30 recommendations in the areas of staff development, curriculum,
31 testing and multicultural ~~assessment~~ *evaluation*, and the
32 development of materials for special education programs.

33 *SEC. 36. Section 56128 of the Education Code is amended to*
34 *read:*

35 56128. The ~~superintendent~~ *Superintendent* shall prepare for
36 board approval, as necessary, any state plan required by federal
37 law in order that this state may qualify for any federal funds
38 available for the education of ~~individuals with exceptional needs~~
39 *pupils with disabilities.*

1 *SEC. 37. Section 56135 of the Education Code is amended to*
2 *read:*

3 56135. (a) ~~The—superintendent~~ *Superintendent* shall be
4 responsible for assuring provision of, and supervising, education
5 and related services to ~~individuals with exceptional needs~~ *pupils*
6 *with disabilities* as specifically required pursuant to the *federal*
7 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400
8 et seq.).

9 (b) Nothing in this part shall be construed to authorize the
10 ~~superintendent~~ *Superintendent* to prescribe health care services.

11 *SEC. 38. Section 56136 of the Education Code is amended to*
12 *read:*

13 56136. ~~The—superintendent~~ *Superintendent* shall develop
14 guidelines for each low incidence disability area and provide
15 technical assistance to parents, teachers, and administrators
16 regarding the implementation of the guidelines. The guidelines
17 shall clarify the identification, ~~assessment~~ *evaluation*, planning
18 of, and the provision of, specialized services to pupils with low
19 incidence disabilities. ~~The—superintendent~~ *Superintendent* shall
20 consider the guidelines when monitoring programs serving pupils
21 with low incidence disabilities pursuant to subdivision (a) of
22 Section 56836.04. The adopted guidelines shall be promulgated
23 for the purpose of establishing recommended guidelines and shall
24 not operate to impose minimum state requirements.

25 *SEC. 39. Section 56140 of the Education Code is amended to*
26 *read:*

27 56140. County offices shall do all of the following:

28 (a) Initiate and submit to the ~~superintendent~~ *Superintendent* a
29 countywide plan for special education which demonstrates the
30 coordination of all local plans submitted pursuant to Section
31 56205 and which ensures that all ~~individuals with exceptional~~
32 ~~needs~~ *pupils with disabilities* residing within the county,
33 including those enrolled in alternative education programs,
34 including, but not limited to, alternative schools, charter schools,
35 opportunity schools and classes, community day schools
36 operated by school districts, community schools operated by
37 county offices of education, and juvenile court schools, will have
38 access to appropriate special education programs and related
39 services. However, a county office shall not be required to

1 submit a countywide plan when all the districts within the county
2 elect to submit a single local plan.

3 (b) Within 45 days, approve or disapprove any proposed local
4 plan submitted by a district or group of districts within the county
5 or counties. Approval shall be based on the capacity of the
6 district or districts to ensure that special education programs and
7 services are provided to all ~~individuals with exceptional needs~~
8 *pupils with disabilities*.

9 (1) If approved, the county office shall submit the plan with
10 comments and recommendations to the ~~superintendent~~
11 *Superintendent*.

12 (2) If disapproved, the county office shall return the plan with
13 comments and recommendations to the district. This district may
14 immediately appeal to the ~~superintendent~~ *Superintendent* to
15 overrule the county office's disapproval. The ~~superintendent~~
16 *Superintendent* shall make a decision on an appeal within 30
17 days of receipt of the appeal.

18 (3) A local plan may not be implemented without approval of
19 the plan by the county office or a decision by the ~~superintendent~~
20 *Superintendent* to overrule the disapproval of the county office.

21 (c) Participate in the state onsite review of the district's
22 implementation of an approved local plan.

23 (d) Join with districts in the county which elect to submit a
24 plan or plans pursuant to subdivision (c) of Section 56195.1. Any
25 plan may include more than one county, and districts located in
26 more than one county. Nothing in this subdivision shall be
27 construed to limit the authority of a county office to enter into
28 other agreements with these districts and other districts to
29 provide services relating to the education of ~~individuals with~~
30 ~~exceptional needs~~ *pupils with disabilities*.

31 (e) For each special education local plan area located within
32 the jurisdiction of the county office of education that has
33 submitted a revised local plan pursuant to Section 56836.03, the
34 county office shall comply with Section 48850, as it relates to
35 ~~individuals with exceptional needs~~ *pupils with disabilities*, by
36 making available to agencies that place children in licensed
37 children's institutions a copy of the annual service plan adopted
38 pursuant to paragraph (2) of subdivision (b) of Section 56205.

39 *SEC. 40. Section 56145 of the Education Code is amended to*
40 *read:*

1 ~~56145. Individuals with exceptional needs attending charter~~
2 ~~schools pursuant to Part 26.8 (commencing with Section 47600)~~
3 ~~shall be served in the same manner as individuals with~~
4 ~~exceptional needs are served in other public schools.~~*In carrying*
5 *out this part with respect to charter schools that are public*
6 *schools of the local educational agency, the local educational*
7 *agency shall do both of the following:*

8 *(A) Serve pupils with disabilities attending those charter*
9 *schools in the same manner as the local educational agency*
10 *serves pupils with disabilities in its other schools, including*
11 *providing supplementary and related services onsite at the*
12 *charter school to the same extent to which the local educational*
13 *agency has a policy or practice of providing those services on the*
14 *site to its other public schools.*

15 *(B) Provide funds under this part to those charter schools in*
16 *accordance with both of the following:*

17 *(i) On the same basis as the local educational agency provides*
18 *funds to the local educational agency's other public schools,*
19 *including proportional distribution based on relative enrollment*
20 *of pupils with disabilities.*

21 *(ii) At the same time as the local educational agency*
22 *distributes other federal funds to the local educational agency's*
23 *other public schools, consistent with the Charter Schools Act of*
24 *1992 (Ch. 1 (commencing with Sec. 47600), Pt. 26.8).*

25 *SEC. 41. Section 56146 of the Education Code is amended to*
26 *read:*

27 56146. It is the intent of the Legislature that local plans for
28 special education local plan areas, adopted pursuant to Chapter
29 2.5 (commencing with Section 56195), shall provide for federal
30 funds available under Part B of the *federal* Individuals with
31 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) to
32 ~~individuals with exceptional needs~~ *pupils with disabilities*
33 enrolled in charter schools.

34 *SEC. 42. Section 56150 of the Education Code is amended to*
35 *read:*

36 56150. Special education programs authorized by this part
37 shall be provided, pursuant to Section 48645.2, for ~~individuals~~
38 ~~with exceptional needs~~ *pupils with disabilities* who have been
39 adjudicated by the juvenile court for placement in a juvenile hall
40 or juvenile home, day center, ranch or camp, or for ~~individuals~~

1 ~~with exceptional needs~~ pupils with disabilities placed in a county
2 community school pursuant to Section 1981.

3 SEC. 43. Section 56155 of the Education Code is amended to
4 read:

5 56155. The provisions of this article shall only apply to
6 ~~individuals with exceptional needs~~ pupils with disabilities placed
7 in a licensed children's institution or foster family home by a
8 court, regional center for the developmentally disabled, or public
9 agency, other than an educational agency.

10 SEC. 44. Section 56155.5 of the Education Code is amended
11 to read:

12 56155.5. (a) As used in this article, "licensed children's
13 institution" means a residential facility that is licensed by the
14 state, or other public agency having delegated authority by
15 contract with the state to license, to provide nonmedical care to
16 children, including, but not limited to, ~~individuals with~~
17 ~~exceptional needs~~ pupils with disabilities. "Licensed children's
18 institution" includes a group home as defined by subdivision (g)
19 of Section 80001 of Title 22 of the California Code of
20 Regulations. As used in this article and Article 3 (commencing
21 with Section 56836.16) of Chapter 7.2, a "licensed children's
22 institution" does not include any of the following:

23 (1) A juvenile court school, juvenile hall, juvenile home, day
24 center, juvenile ranch, or juvenile camp administered pursuant to
25 Article 2.5 (commencing with Section 48645) of Chapter 4 of
26 Part 27.

27 (2) A county community school program provided pursuant to
28 Section 1981.

29 (3) Any special education programs provided pursuant to
30 Section 56150.

31 (4) Any other public agency.

32 (b) As used in this article, "foster family home" means a
33 family residence that is licensed by the state, or other public
34 agency having delegated authority by contract with the state to
35 license, to provide 24-hour nonmedical care and supervision for
36 not more than six foster children, including, but not limited to,
37 ~~individuals with exceptional needs~~ pupils with disabilities.
38 "Foster family home" includes a small family home as defined in
39 paragraph (6) of subdivision (a) of Section 1502 of the Health
40 and Safety Code.

1 *SEC. 45. Section 56156 of the Education Code is amended to*
2 *read:*

3 56156. (a) Each court, regional center for the
4 developmentally disabled, or public agency that engages in
5 referring children to, or placing children in, licensed children's
6 institutions shall report to the special education administrator of
7 the district, special education local plan area, or county office in
8 which the licensed children's institution is located any referral or
9 admission of a child who is potentially eligible for special
10 education.

11 (b) At the time of placement in a licensed children's institution
12 or foster family home, each court, regional center for the
13 developmentally disabled, or public agency shall identify all of
14 the following:

15 (1) Whether the courts have specifically limited the rights of
16 the parent or guardian to make educational decisions for a child
17 who is a ward or dependent of the court.

18 (2) The location of the parents, in the event that the parents
19 retain the right to make educational decisions.

20 (3) Whether the location of the parents is unknown.

21 (c) Each person licensed by the state to operate a licensed
22 children's institution, or his or her designee, shall notify the
23 special education administrator of the district, special education
24 local plan area, or county office in which the licensed children's
25 institution is located of any child potentially eligible for special
26 education who resides at the facility.

27 (d) ~~The superintendent~~ *Superintendent* shall provide each
28 county office of education with a current list of licensed
29 children's institutions in that county at least biannually. The
30 county office shall maintain the most current list of licensed
31 children's institutions located within the county and shall notify
32 each district and special education local plan area within the
33 county of the names of licensed children's institutions located in
34 the geographical area of the county covered by the district and
35 special education local plan area. The county office shall notify
36 the director of each licensed children's institution of the
37 appropriate person to contact regarding ~~individuals with~~
38 ~~exceptional needs~~ *pupils with disabilities*.

39 *SEC. 46. Section 56156.4 of the Education Code is amended*
40 *to read:*

1 56156.4. (a) Each special education local plan area shall be
2 responsible for providing appropriate education to ~~individuals~~
3 ~~with exceptional needs~~ *pupils with disabilities* residing in
4 licensed children's institutions and foster family homes located
5 in the geographical area covered by the local plan.

6 (b) In multidistrict and district and county office local plan
7 areas, local written agreements shall be developed, pursuant to
8 subdivision (f) of Section 56195.7, to identify the public
9 education entities that will provide the special education services.

10 (c) If there is no local agreement, special education services
11 for ~~individuals with exceptional needs~~ *pupils with disabilities*
12 residing in licensed children's institutions shall be the
13 responsibility of the county office in the county in which the
14 institution is located, if the county office is part of the special
15 education local plan area, and special education services for
16 ~~individuals with exceptional needs~~ *pupils with disabilities*
17 residing in foster family homes shall be the responsibility of the
18 district in which the foster family home is located. If a county
19 office is not a part of the special education local plan area,
20 special education services for ~~individuals with exceptional needs~~
21 *pupils with disabilities* residing in licensed children's institutions,
22 pursuant to this subdivision, shall be the responsibility of the
23 responsible local agency or other administrative entity of the
24 special education local plan area. This program responsibility
25 shall continue until the time local written agreements are
26 developed pursuant to subdivision (f) of Section 56195.7.

27 (d) This section shall apply to special education local plan
28 areas that are submitting a revised local plan for approval
29 pursuant to Section 56836.03 or that have an approved revised
30 local plan pursuant to Section 56836.03.

31 *SEC. 47. Section 56156.6 of the Education Code is amended*
32 *to read:*

33 56156.6. (a) If the district in which the licensed children's
34 institution or foster family home is located is also the district of
35 residence of the parent of the ~~individual with exceptional needs~~
36 *pupil with a disability*, and if the parent retains legal
37 responsibility for the ~~child's~~ *pupil's* education, Sections
38 56836.16 and 56836.17 shall not apply.

39 (b) This section shall become inoperative on June 30, 2004,
40 and, as of July 1, 2006, is repealed, unless a later enacted statute,

1 that becomes operative on or before July 1, 2006, deletes or
2 extends the dates on which it becomes inoperative and is
3 repealed.

4 *SEC. 48. Section 56157 of the Education Code is amended to*
5 *read:*

6 56157. (a) In providing appropriate programs to ~~individuals~~
7 ~~pupils with exceptional needs~~ *disabilities* residing in licensed
8 children's institutions or foster family homes, the local
9 educational agency shall first consider services in programs
10 operated by public education agencies for ~~individuals with~~
11 ~~exceptional needs~~ *pupils with disabilities*. If those programs are
12 not appropriate, special education and related services shall be
13 provided by contract with a nonpublic, nonsectarian school.

14 (b) If special education and related services are provided by
15 contract with a nonpublic, nonsectarian school, or with a licensed
16 children's institution under this article, the terms of the contract
17 shall be developed in accordance with the provisions of Section
18 56366.

19 (c) ~~If an individual with exceptional needs~~ *a pupil with a*
20 *disability* residing in a licensed children's institution or foster
21 family home is placed in a nonpublic, nonsectarian school, the
22 local educational agency that made the placement shall conduct
23 an annual evaluation, in accordance with federal law as part of
24 the annual individualized education program process, of whether
25 the placement is the least restrictive environment that is
26 appropriate to meet the pupil's needs.

27 (d) ~~If an individual with exceptional needs~~ *a pupil with a*
28 *disability* residing in a licensed children's institution or foster
29 family home is placed in a nonpublic, nonsectarian school, the
30 nonpublic, nonsectarian school shall report to the local
31 educational agency that made the placement, on a quarterly or
32 trimester basis, as appropriate, the educational progress
33 demonstrated by the ~~individual with exceptional needs~~ *pupil with*
34 *a disability* towards the attainment of the goals and objectives
35 specified in the individual's individualized education program.
36 Pursuant to federal law, no local educational agency shall refer a
37 pupil to a nonpublic, nonsectarian school, unless the services
38 required by the individualized education program of the pupil can
39 be assured.

1 *SEC. 49. Section 56162 of the Education Code is amended to*
2 *read:*

3 56162. ~~Individuals with exceptional needs~~*Pupils with*
4 *disabilities* placed in a licensed children's institution or foster
5 family home by a court, regional center for the developmentally
6 disabled, or public agency, other than an educational agency,
7 prior to ~~the effective date of this article~~ *January 1, 1982*, shall be
8 considered residents of the geographical area of the local plan in
9 which the licensed children's institution or foster family home is
10 located, for special education and related services pursuant to the
11 provisions of this article.

12 *SEC. 50. Section 56163 of the Education Code is amended to*
13 *read:*

14 56163. A licensed children's institution which provides
15 nonsectarian educational programs for ~~individuals with~~
16 ~~exceptional needs~~ *pupils with disabilities* shall be certified by the
17 department as prescribed by subdivision (c) of Section 56366.

18 *SEC. 51. Section 56165 of the Education Code is amended to*
19 *read:*

20 56165. This article shall not apply to ~~individuals with~~
21 ~~exceptional needs~~ *pupils with disabilities* placed in a licensed
22 children's institution pursuant to Section 56365.

23 *SEC. 52. Section 56167 of the Education Code is amended to*
24 *read:*

25 56167. (a) ~~Individuals with exceptional needs~~*Pupils with*
26 *disabilities* who are placed in a public hospital, state licensed
27 children's hospital, psychiatric hospital, proprietary hospital, or a
28 health facility for medical purposes are the educational
29 responsibility of the district, special education local plan area, or
30 county office in which the hospital or facility is located, as
31 determined in local written agreements pursuant to subdivision
32 (e) of Section 56195.7.

33 (b) For the purposes of this part, "health facility" shall have
34 the definition set forth in Sections 1250, 1250.2, and 1250.3 of
35 the Health and Safety Code.

36 *SEC. 53. Section 56167.5 of the Education Code is amended*
37 *to read:*

38 56167.5. Nothing in this article shall be construed to mean
39 that the placement of ~~any individual with exceptional needs~~ *a*
40 *pupil with a disability* in a hospital or health facility constitutes a

1 necessary residential placement, as described under Section
2 300.302 of Title 34 of the Code of Federal Regulations, for
3 which the district, special education local plan area, or county
4 office would be responsible as an educational program option
5 under this part.

6 *SEC. 54. Section 56168 of the Education Code is amended to*
7 *read:*

8 56168. (a) A public hospital, state licensed children's
9 hospital, psychiatric hospital, proprietary hospital, or a health
10 facility for medical purposes located either within and outside of
11 this state that did not provide special education to ~~individuals~~
12 ~~with exceptional needs~~ *pupils with disabilities* who satisfy the
13 criteria set forth in paragraph (2) of subdivision (c) of Section
14 56026 pursuant to a waiver granted under Section 56366.2 for the
15 1994-95 school year, is ineligible for certification as a nonpublic,
16 nonsectarian school pursuant to Section 56034 and Sections
17 56365 to 56366.5, inclusive, to provide special education to
18 ~~individuals with exceptional needs~~ *pupils with disabilities*.
19 Districts, special education local plan areas, or county offices
20 shall have until September 1, 1994, to find an appropriate
21 alternative placement for any ~~children~~ *pupils* currently served in
22 one of these programs.

23 (b) The district, special education local plan area, or county
24 office in which the hospital or health facility is located has the
25 educational responsibility for ~~individuals with exceptional needs~~
26 *pupils with disabilities* who reside in these facilities.

27 (c) A hospital or health facility is eligible for certification as a
28 nonpublic, nonsectarian agency pursuant to Section 56035 and
29 Sections 56365 to 56366.5, inclusive, to provide designated
30 instruction and services to ~~individuals with exceptional needs~~
31 *pupils with disabilities* whether the ~~child~~ *pupil* attends a public or
32 nonpublic school or is enrolled in both a public and nonpublic
33 school program as specified in Section 56361.5.

34 *SEC. 55. Section 56170 of the Education Code is repealed.*

35 56170. ~~As used in this part, "private school children with~~
36 ~~disabilities" means children with disabilities enrolled by a parent~~
37 ~~in private schools or facilities, in accordance with Section~~
38 ~~300.450 of Title 34 of the Code of Federal Regulations, other~~
39 ~~than individuals with exceptional needs placed by a district,~~

1 ~~special education local plan area, or county office in a nonpublic,~~
2 ~~nonsectarian school pursuant to Section 56365.~~

3 *SEC. 56. Section 56170 is added to the Education Code, to*
4 *read:*

5 *56170. (a) To the extent consistent with the number and*
6 *location of pupils with disabilities who are enrolled by their*
7 *parents or guardians in private elementary schools or private*
8 *secondary schools in the school district served by a local*
9 *educational agency, provision shall be made for the participation*
10 *of those pupils in the program under this part and under the*
11 *federal Individuals with Disabilities Education Act (20 U.S.C.*
12 *Sec. 1400 et seq.) by providing for those pupils special education*
13 *and related services in accordance with the following*
14 *requirements, unless the State Board of Education has arranged*
15 *for services to those pupils under subdivision (f):*

16 *(1) Amounts to be expended for the provision of those services,*
17 *including direct services to parentally placed private school*
18 *pupils, by the local educational agency shall be equal to a*
19 *proportionate amount of federal funds made available under the*
20 *federal Individuals with Disabilities Education Act (20 U.S.C.*
21 *Sec. 1400 et seq.).*

22 *(2) In calculating the proportionate amount of federal funds,*
23 *the local educational agency, after timely and meaningful*
24 *consultation with representatives of private schools as described*
25 *in subdivision (c), shall conduct a thorough and complete child*
26 *find process to determine the number of parentally placed pupils*
27 *with disabilities attending private schools located in the local*
28 *educational agency.*

29 *(3) The services to parentally placed pupils with disabilities in*
30 *private schools may be provided to the pupils on the premises of*
31 *private, including religious, schools, to the extent consistent with*
32 *law.*

33 *(4) State and local funds may supplement, and in no case shall*
34 *supplant, the proportionate amount of federal funds required to*
35 *be expended under this subdivision.*

36 *(5) Each local educational agency shall maintain in its*
37 *records and provide to the State Board of Education the number*
38 *of pupils evaluated under this section, the number of pupils*
39 *determined to be pupils with disabilities under this section, and*
40 *the number of pupils served under this section.*

1 **(b) (1)** *The requirements of paragraph (3), relating to child*
2 *find, shall apply with respect to pupils with disabilities who are*
3 *enrolled in private, including religious, elementary schools and*
4 *secondary schools.*

5 **(2)** *The child find process shall be designed to ensure the*
6 *equitable participation of parentally placed pupils with*
7 *disabilities in private school and an accurate count of those*
8 *pupils.*

9 **(3)** *In carrying out this subdivision, the local educational*
10 *agency, or where applicable, the State Board of Education, shall*
11 *undertake activities similar to those activities undertaken for the*
12 *agency's public school children.*

13 **(4)** *The cost of carrying out this subdivision, including*
14 *individual evaluations, may not be considered in determining*
15 *whether a local educational agency has met its obligations under*
16 *subdivision (a).*

17 **(5)** *The child find process shall be completed in a time period*
18 *comparable to that for other pupils attending public schools in*
19 *the local educational agency.*

20 **(c)** *To ensure timely and meaningful consultation, a local*
21 *educational agency, or where appropriate, a state educational*
22 *agency, shall consult with private school representatives and*
23 *representatives of the parents or guardians of a parentally*
24 *placed pupil with a disability in private school during the design*
25 *and development of special education and related services for the*
26 *pupil, regarding all of the following:*

27 **(1)** *The child find process and the manner in which parentally*
28 *placed private school pupils who are suspected of having a*
29 *disability can participate equitably, including how parents,*
30 *teachers, and private school officials will be informed of the*
31 *process.*

32 **(2)** *The determination of the proportionate amount of federal*
33 *funds available to serve parentally placed private school pupils*
34 *with disabilities pursuant to this section, including the*
35 *determination of the manner in which the amount was calculated.*

36 **(3)** *The consultation process among the local educational*
37 *agency, private school officials, and representatives of parents of*
38 *parentally placed private school pupils with disabilities,*
39 *including the manner in which the process will operate*
40 *throughout the school year to ensure that parentally placed*

1 *private school pupils with disabilities identified through the child*
2 *find process can meaningfully participate in special education*
3 *and related services.*

4 *(4) The manner in which, the location at which, and the*
5 *identity of those to whom special education and related services*
6 *will be provided for parentally placed private school pupils with*
7 *disabilities, including a discussion of types of services, including*
8 *direct services and alternate service delivery mechanisms, the*
9 *manner in which the services will be apportioned if funds are*
10 *insufficient to serve all pupils, and how and when these decisions*
11 *will be made.*

12 *(5) The manner in which, if the local educational agency*
13 *disagrees with the views of the private school officials on the*
14 *provision of services or the types of services, whether provided*
15 *directly or through a contract, the local educational agency shall*
16 *provide to the private school officials a written explanation of the*
17 *reasons why the local educational agency chose not to provide*
18 *services directly or through a contract.*

19 *(d) When timely and meaningful consultation as required by*
20 *subdivision (c) has occurred, the local educational agency shall*
21 *obtain a written affirmation signed by the representatives of*
22 *participating private schools, and if the representatives do not*
23 *provide the affirmation within a reasonable period of time, the*
24 *local educational agency shall forward the documentation of the*
25 *consultation process to the State Board of Education.*

26 *(e) (1) A private school official shall have the right to submit*
27 *a complaint to the State Board of Education that the local*
28 *educational agency did not engage in consultation that was*
29 *meaningful and timely, or did not give due consideration to the*
30 *views of the private school official.*

31 *(2) If the private school official wishes to submit a complaint,*
32 *the official shall provide the basis of the noncompliance with this*
33 *section by the local educational agency to the department, and*
34 *the local educational agency shall forward the appropriate*
35 *documentation to the State Board of Education. If the private*
36 *school official is dissatisfied with the decision of the State Board*
37 *of Education, the official may submit a complaint to the secretary*
38 *by providing the basis of the noncompliance with this section by*
39 *the local educational agency to the Secretary of Education, and*

1 *the State Board of Education shall forward the appropriate*
2 *documentation to the Secretary of Education.*

3 *(3) The provision of services pursuant to this section shall be*
4 *provided by employees of a public agency or through contract by*
5 *the public agency with an individual, association, agency,*
6 *organization, or other entity.*

7 *(4) Special education and related services provided to*
8 *parentally placed private school pupils with disabilities,*
9 *including materials and equipment, shall be secular, neutral, and*
10 *nonideological.*

11 *(5) The control of funds used to provide special education and*
12 *related services under this section, and title to materials,*
13 *equipment, and property purchased with those funds, shall be in*
14 *a public agency for the uses and purposes provided in this part,*
15 *and a public agency shall administer the funds and property.*

16 *(f) (1) Pupils with disabilities in private schools and facilities*
17 *are provided special education and related services, in*
18 *accordance with an individualized education program, at no cost*
19 *to their parents, if those children are placed in, or referred to,*
20 *the schools or facilities by the State Board of Education or*
21 *appropriate local educational agency as the means of carrying*
22 *out the requirements of this part or any other applicable law*
23 *requiring the provision of special education and related services*
24 *to all pupils with disabilities within the state.*

25 *(2) In all cases described in paragraph (1), the State Board of*
26 *Education shall determine whether the schools and facilities*
27 *meet standards that apply to state educational agencies and local*
28 *educational agencies and that pupils so served have all the rights*
29 *the pupils would have if served by those agencies.*

30 *(g) (1) Subject to paragraph (2), this part does not require a*
31 *local educational agency to pay for the cost of education,*
32 *including special education and related services, of a pupil with*
33 *a disability at a private school or facility if that agency made a*
34 *free appropriate public education available to the pupil and the*
35 *parents elected to place the child in the private school or facility.*

36 *(2) If the parents of a pupil with a disability, who previously*
37 *received special education and related services under the*
38 *authority of a public agency, enroll the pupil in a private*
39 *elementary school or secondary school without the consent of or*
40 *referral by the public agency, a court or a hearing officer may*

1 *require the agency to reimburse the parents for the cost of that*
2 *enrollment if the court or hearing officer finds that the agency*
3 *had not made a free appropriate public education available to*
4 *the pupil in a timely manner prior to that enrollment.*

5 *(3) The cost of reimbursement described in paragraph (2) may*
6 *be reduced or denied if any of the following is applicable:*

7 *(A) At the most recent IEP meeting that the parents attended*
8 *prior to removal of the pupil from the public school, the parents*
9 *did not inform the IEP team that they were rejecting the*
10 *placement proposed by the public agency to provide a free*
11 *appropriate public education to their child, including stating*
12 *their concerns and their intent to enroll their child in a private*
13 *school at public expense.*

14 *(B) Ten business days, including any holidays that occur on a*
15 *business day, prior to the removal of the pupil from the public*
16 *school, the parents did not give written notice to the public*
17 *agency of the information described in subparagraph (A).*

18 *(C) If, prior to the parents' removal of the pupil from the*
19 *public school, the public agency informed the parents, through*
20 *the notice requirements described in paragraph (3) of subsection*
21 *(b) of Section 1415 of Title 20 of the United States Code, of its*
22 *intent to evaluate the pupil, including a statement of the purpose*
23 *of the evaluation that was appropriate and reasonable, but the*
24 *parents did not make the pupil available for the evaluation.*

25 *(D) Upon a judicial finding of unreasonableness with respect*
26 *to actions taken by the parents.*

27 *(E) Notwithstanding the notice requirements in subparagraphs*
28 *(A) and (B), the cost of reimbursement shall not be reduced or*
29 *denied for failure to provide the notice if the school prevented the*
30 *parent from providing the notice, the parents had not received*
31 *notice, pursuant to Section 1415 of Title 20 of the United States*
32 *Code, of the notice requirements in subparagraphs (A) and (B),*
33 *or compliance with subparagraphs (A) and (B) would likely*
34 *result in physical harm to the pupil.*

35 *(F) Notwithstanding the notice requirements in subparagraphs*
36 *(A) and (B), the cost of reimbursement may, in the discretion of a*
37 *court or a hearing officer, not be reduced or denied for failure to*
38 *provide the notice if the parent is illiterate or cannot write in*
39 *English or compliance with the notice requirements would likely*
40 *result in serious emotional harm to the pupil.*

1 ~~SEC. 57. Section 56171 of the Education Code is repealed.~~

2 ~~56171. Districts, special education local plan areas, and~~
3 ~~county offices shall locate, identify, and assess all private school~~
4 ~~children with disabilities, including religiously affiliated~~
5 ~~schoolage children, who have disabilities and are in need of~~
6 ~~special education and related services residing in the jurisdiction~~
7 ~~of the district, special education local plan area, or county office~~
8 ~~in accordance with Section 56301. The activities undertaken to~~
9 ~~carry out this responsibility for private school children with~~
10 ~~disabilities shall be comparable to activities undertaken in~~
11 ~~accordance with the provisions of Section 300.451 of Title 34 of~~
12 ~~the Code of Federal Regulations.~~

13 ~~SEC. 58. Section 56172 of the Education Code is repealed.~~

14 ~~56172. The district, special education local plan area, or~~
15 ~~county office shall make provision for the participation of private~~
16 ~~school children with disabilities in special education programs~~
17 ~~under this part by providing them with special education and~~
18 ~~related services in accordance with the provisions of this article.~~

19 ~~SEC. 59. Section 56173 of the Education Code is repealed.~~

20 ~~56173. To meet the requirements of Section 56172, each~~
21 ~~district, special education local plan area, or county office shall~~
22 ~~spend on providing special education and related services to~~
23 ~~private school children with disabilities enrolled by a parent in~~
24 ~~private elementary and secondary schools, an amount of federal~~
25 ~~state grant funds allocated to the state under Part B of the~~
26 ~~Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400~~
27 ~~et seq.) that is equal to a proportionate amount of federal funds~~
28 ~~made available under the Part B grant program for local~~
29 ~~assistance, in accordance with Section 300.453 of Title 34 of the~~
30 ~~Code of Federal Regulations and as provided in paragraph (2) of~~
31 ~~subsection (b) of Section 300.456 and Sections 300.458, 300.459,~~
32 ~~300.460, 300.461, and 300.462 of Title 34 of the Code of Federal~~
33 ~~Regulations.~~

34 ~~SEC. 60. Section 56174 of the Education Code is repealed.~~

35 ~~56174. The district, special education local plan area, or~~
36 ~~county office shall not be required to pay for the cost of~~
37 ~~education, including special education and related services, of a~~
38 ~~child with a disability at a private school or facility if the district,~~
39 ~~special education local plan area, or county office made a free~~
40 ~~appropriate public education available to the child and the parent~~

1 of the child elected to place the child in the private school or
2 facility.

3 *SEC. 61. Section 56174.5 of the Education Code is repealed.*

4 ~~56174.5. (a) Private school individuals with exceptional~~
5 ~~needs may receive a different amount of services than individuals~~
6 ~~with exceptional needs in public school receive pursuant to~~
7 ~~paragraph (2) of subsection (a) of Section 300.455 of Title 34 of~~
8 ~~the Code of Federal Regulations. No private school individuals~~
9 ~~with exceptional needs is entitled to any amount of service the~~
10 ~~child would receive if enrolled in a public school pursuant to~~
11 ~~paragraph (3) of subsection (a) of Section 300.455 of Title 34 of~~
12 ~~the Code of Federal Regulations.~~

13 ~~(b) Decisions about the services provided to private school~~
14 ~~individuals with exceptional needs pursuant to this article shall~~
15 ~~be made pursuant to this section and Sections 300.454, 300.455,~~
16 ~~and 300.456 of Title 34 of the Code of Federal Regulations.~~

17 *SEC. 62. Section 56175 of the Education Code is repealed.*

18 ~~56175. If a parent or guardian of an individual with~~
19 ~~exceptional needs, who previously received special education~~
20 ~~and related services under the authority of the district, special~~
21 ~~education local plan area, or county office, enrolls the child in a~~
22 ~~private elementary or secondary school without the consent of or~~
23 ~~referral by the district, special education local plan area, or~~
24 ~~county office, a court or a due process hearing officer may~~
25 ~~require the district, special education local plan area, or county~~
26 ~~office to reimburse the parent or guardian for the cost of that~~
27 ~~enrollment if the court or due process hearing officer finds that~~
28 ~~the district, special education local plan area, or county office~~
29 ~~had not made a free appropriate public education available to the~~
30 ~~child in a timely manner prior to that enrollment in the private~~
31 ~~elementary or secondary school and that the private placement is~~
32 ~~appropriate, in accordance with subsection (c) of Section 300.403~~
33 ~~of Title 34 of the Code of Federal Regulations.~~

34 *SEC. 63. Section 56176 of the Education Code is repealed.*

35 ~~56176. The cost of the reimbursement described in Section~~
36 ~~56175 may be reduced or denied in the event of any of the~~
37 ~~following:~~

38 ~~(a) At the most recent individualized education program~~
39 ~~meeting that a parent or guardian attended prior to removal of the~~
40 ~~child from the public school, the parent or guardian did not~~

1 ~~inform the individualized education program team that they were~~
2 ~~rejecting the placement proposed by the district, special~~
3 ~~education local plan area, or county office to provide a free~~
4 ~~appropriate public education to the child, including stating his or~~
5 ~~her concerns and the intent to enroll the child in a private school~~
6 ~~at public expense.~~

7 ~~(b) The parent or guardian did not give written notice to the~~
8 ~~district, special education local plan area, or county office of the~~
9 ~~information described in subdivision (a) at least 10 business~~
10 ~~days, including any holidays that occur on a business day, prior~~
11 ~~to the removal of the child from the public school.~~

12 ~~(c) Prior to the parent's removal of the child from the public~~
13 ~~school, the district, special education local plan area, or county~~
14 ~~office informed the parent, through the notice requirements~~
15 ~~described in paragraph (1) of subdivision (a) of Section 56500.4,~~
16 ~~of its intent to assess the child, including a statement of the~~
17 ~~purpose of the assessment that was appropriate and reasonable,~~
18 ~~but the parent did not make the child available for the~~
19 ~~assessment.~~

20 ~~(d) Upon a judicial finding of unreasonableness with respect to~~
21 ~~actions taken by a parent.~~

22 *SEC. 64. Section 56177 of the Education Code is repealed.*

23 ~~56177. Notwithstanding the notice requirement in subdivision~~
24 ~~(a) of Section 56176, the cost of reimbursement may not be~~
25 ~~reduced or denied for failure to provide the notice in the event of~~
26 ~~any of the following:~~

27 ~~(a) The parent is illiterate and cannot write in English.~~

28 ~~(b) Compliance with subdivision (a) of Section 56176 would~~
29 ~~likely result in physical or serious emotional harm to the child.~~

30 ~~(c) The school prevented the parent from providing the notice.~~

31 ~~(d) The parent had not received notice of the due process~~
32 ~~hearing rights under Chapter 5 (commencing with Section~~
33 ~~56500).~~

34 *SEC. 65. Section 56192 of the Education Code is amended to*
35 *read:*

36 56192. The community advisory committee shall be
37 composed of parents of ~~individuals with exceptional needs~~ *pupils*
38 *with disabilities* enrolled in public or private schools, parents of
39 other pupils enrolled in school, pupils and adults with disabilities,
40 regular education teachers, special education teachers and other

1 school personnel, representatives of other public and private
2 agencies, and persons concerned with the needs of ~~individuals~~
3 ~~with exceptional needs~~ *pupils with disabilities*.

4 SEC. 66. Section 56193 of the Education Code is amended to
5 read:

6 56193. At least the majority of ~~such~~ the committee shall be
7 composed of parents of pupils enrolled in schools participating in
8 the local plan, and at least a majority of ~~such~~ those parents shall
9 be parents of ~~individuals with exceptional needs~~ *pupils with*
10 *disabilities*.

11 SEC. 67. Section 56195.1 of the Education Code is amended
12 to read:

13 56195.1. The governing board of a district shall elect to do
14 one of the following:

15 (a) If of sufficient size and scope, under standards adopted by
16 the board, submit to the ~~superintendent~~ *Superintendent* a local
17 plan for the education of all ~~individuals with exceptional needs~~
18 *pupils with disabilities* residing in the district in accordance with
19 Chapter 3 (commencing with Section 56205).

20 (b) In conjunction with one or more districts, submit to the
21 ~~superintendent~~ *Superintendent* a local plan for the education of
22 ~~individuals with exceptional needs~~ *pupils with disabilities*
23 residing in those districts in accordance with Chapter 3
24 (commencing with Section 56205). The plan shall include,
25 through joint powers agreements or other contractual agreements,
26 all the following:

27 (1) Provision of a governance structure and any necessary
28 administrative support to implement the plan.

29 (2) Establishment of a system for determining the
30 responsibility of participating agencies for the education of each
31 ~~individual with exceptional needs~~ *pupil with a disability* residing
32 in the special education local plan area.

33 (3) Designation of a responsible local agency or alternative
34 administrative entity to perform functions such as the receipt and
35 distribution of funds, provision of administrative support, and
36 coordination of the implementation of the plan. Any participating
37 agency may perform any of these services required by the plan.

38 (c) Join with the county office, to submit to the ~~superintendent~~
39 *Superintendent* a local plan in accordance with Chapter 3
40 (commencing with Section 56205) to assure access to special

1 education and services for all ~~individuals with exceptional needs~~
2 *pupils with disabilities* residing in the geographic area served by
3 the plan. The county office shall coordinate the implementation
4 of the plan, unless otherwise specified in the plan. The plan shall
5 include, through contractual agreements, all of the following:

6 (1) Establishment of a system for determining the
7 responsibility of participating agencies for the education of each
8 ~~individual pupil with exceptional needs~~ *a disability* residing in
9 the geographical area served by the plan.

10 (2) Designation of the county office, of a responsible local
11 agency, or of any other administrative entity to perform functions
12 such as the receipt and distribution of funds, provision of
13 administrative support, and coordination of the implementation
14 of the plan. Any participating agency may perform any of these
15 services required by the plan.

16 (d) The service area covered by the local plan developed under
17 subdivision (a), (b), or (c) shall be known as the special
18 education local plan area.

19 (e) This section does not limit the authority of a county office
20 and a school district or group of school districts to enter into
21 contractual agreements for services relating to the education of
22 ~~individuals with exceptional needs~~ *pupils with disabilities*.
23 Except for instructional personnel service units serving infants,
24 until a special education local plan area adopts a revised local
25 plan approved pursuant to Section 56836.03, the county office of
26 education or school district that reports a unit for funding shall be
27 the agency that employs the personnel who staff the unit, unless
28 the combined unit rate and support service ratio of the
29 nonemploying agency is equal to or lower than that of the
30 employing agency and both agencies agree that the
31 nonemploying agency will report the unit for funding.

32 (f) A charter school that is deemed a local educational agency
33 for the purposes of special education pursuant to Article 4
34 (commencing with Section 47640) of Chapter 6 of Part 26.8 shall
35 participate in an approved local plan pursuant to subdivision (a),
36 (b), or (c). A charter school may submit written policies and
37 procedures to the department for approval by the State Board of
38 Education, which establish compliance with the *federal*
39 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400
40 et seq.), and implementing regulations, either individually,

1 pursuant to subdivision (a) or with other charter schools pursuant
2 to subdivision (b). The State Board of Education shall review
3 these policies and procedures, based on the criteria established
4 pursuant to Section 56100. Upon approval by the State Board of
5 Education, these written policies and procedures shall become
6 the local plan.

7 *SEC. 68. Section 56195.7 of the Education Code is amended*
8 *to read:*

9 56195.7. In addition to the provisions required to be included
10 in the local plan pursuant to Chapter 3 (commencing with
11 Section 56205), each special education local plan area that
12 submits a local plan pursuant to subdivision (b) of Section
13 56195.1 and each county office that submits a local plan pursuant
14 to subdivision (c) of Section 56195.1 shall develop written
15 agreements to be entered into by entities participating in the plan.
16 The agreements need not be submitted to the ~~superintendent~~
17 *Superintendent*. These agreements shall include, but not be
18 limited to, the following:

19 (a) A coordinated identification, referral, and placement
20 system pursuant to Chapter 4 (commencing with Section 56300).

21 (b) Procedural safeguards pursuant to Chapter 5 (commencing
22 with Section 56500).

23 (c) Regionalized services to local programs, including, but not
24 limited to, all of the following:

25 (1) Program specialist service pursuant to Section 56368.

26 (2) Personnel development, including training for staff,
27 parents, and members of the community advisory committee
28 pursuant to Article 3 (commencing with Section 56240).

29 (3) Evaluation pursuant to Chapter 6 (commencing with
30 Section 56600).

31 (4) Data collection and development of management
32 information systems.

33 (5) Curriculum development.

34 (6) Provision for ongoing review of programs conducted, and
35 procedures utilized, under the local plan, and a mechanism for
36 correcting any identified problem.

37 (d) A description of the process for coordinating services with
38 other local public agencies that are funded to serve ~~individuals~~
39 ~~with exceptional needs~~ *pupils with disabilities*.

1 (e) A description of the process for coordinating and providing
2 services to ~~individuals with exceptional needs~~ *pupils with*
3 *disabilities* placed in public hospitals, proprietary hospitals, and
4 other residential medical facilities pursuant to Article 5.5
5 (commencing with Section 56167) of Chapter 2.

6 (f) A description of the process for coordinating and providing
7 services to ~~individuals with exceptional needs~~ *pupils with*
8 *disabilities* placed in licensed children's institutions and foster
9 family homes pursuant to Article 5 (commencing with Section
10 56155) of Chapter 2.

11 (g) A description of the process for coordinating and providing
12 services to ~~individuals with exceptional needs~~ *pupils with*
13 *disabilities* placed in juvenile court schools or county community
14 schools pursuant to Section 56150.

15 (h) A budget for special education and related services that
16 shall be maintained by the special education local plan area and
17 be open to the public covering the entities providing programs or
18 services within the special education local plan area. The budget
19 language shall be presented in a form that is understandable by
20 the general public. For each local educational agency or other
21 entity providing a program or service, the budget, at minimum,
22 shall display the following:

23 (1) Expenditures by object code and classification for the
24 previous fiscal year and the budget by the same object code
25 classification for the current fiscal year.

26 (2) The number and type of certificated instructional and
27 support personnel, including the type of class setting to which
28 they are assigned, if appropriate.

29 (3) The number of instructional aides and other qualified
30 classified personnel.

31 (4) The number of enrolled ~~individuals with exceptional needs~~
32 *pupils with disabilities* receiving each type of service provided.

33 (i) For multidistrict special education local plan areas, a
34 description of the policymaking process that shall include a
35 description of the local method used to distribute state and
36 federal funds among the local educational agencies in the special
37 education local plan area. The local method to distribute funds
38 shall be approved according to the policymaking process
39 established consistent with subdivision (f) of Section 56001 and

1 pursuant to paragraph (3) of subdivision (b) of Section 56205 or
2 subdivision (c) of Section 56200, whichever is appropriate.

3 (j) (1) In accordance with Section 1413 of Title 20 of the
4 United States Code, each single-district special education local
5 plan area established pursuant to Section 56195.1 shall have a
6 written procedure for the ongoing review of programs conducted,
7 and procedures utilized pursuant to Section 56205, under the
8 local plan as defined pursuant to Section 56027 and administered
9 pursuant to Section 56195, and a mechanism for correcting any
10 identified problem pursuant to paragraph (6) of subdivision (c).

11 (2) Multidistrict special education local plan areas established
12 pursuant to subdivision (b) of Section 56195.1 and a district or
13 districts joined with the county office in accordance with
14 subdivision (c) of Section 56195.1 shall have a written agreement
15 entered into by entities participating in the local plan that
16 includes a provision for ongoing review of programs conducted,
17 and procedures utilized, under the local plan, and a mechanism
18 for correcting any identified problem pursuant to paragraph (6) of
19 subdivision (c).

20 (3) The written procedure referenced in paragraph (1) and the
21 written agreement referenced in paragraph (2) need not be
22 submitted to the superintendent but shall be available upon
23 request by the department.

24 *SEC. 69. Section 56195.8 of the Education Code is amended*
25 *to read:*

26 56195.8. (a) Each entity providing special education under
27 this part shall adopt policies for the programs and services it
28 operates, consistent with agreements adopted pursuant to
29 subdivision (b) or (c) of Section 56195.1 or Section 56195.7. The
30 policies need not be submitted to the superintendent.

31 (b) The policies shall include, but not be limited to, all of the
32 following:

33 (1) Nonpublic, nonsectarian services, including those provided
34 pursuant to Sections 56365 and 56366.

35 (2) Review, at a general education or special education
36 teacher's request, of the assignment of ~~an individual with~~
37 ~~exceptional needs~~ *a pupil with a disability* to his or her class and
38 a mandatory meeting of the individualized education program
39 team if the review indicates a change in the pupil's placement,
40 instruction, related services, or any combination thereof. The

1 procedures shall indicate which personnel are responsible for the
2 reviews and a timetable for completion of the review.

3 (3) Procedural safeguards pursuant to Chapter 5 (commencing
4 with Section 56500).

5 (4) Resource specialists pursuant to Section 56362.

6 (5) Transportation, where appropriate, which describes ~~how~~
7 *the manner in which* special education transportation is
8 coordinated with regular home-to-school transportation. The
9 policy shall set forth criteria for meeting the transportation needs
10 of special education pupils. The policy shall include procedures
11 to ensure compatibility between mobile seating devices, when
12 used, and the securement systems required by Federal Motor
13 Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and to
14 ensure that schoolbus drivers are trained in the proper installation
15 of mobile seating devices in the securement systems.

16 (6) Information on the number of ~~individuals with exceptional~~
17 *needs pupils with disabilities* who are being provided special
18 education and related services.

19 (7) Caseloads pursuant to Chapter 4.45 (commencing with
20 Section 56440) of Part 30. The policies, with respect to
21 caseloads, shall not be developed until guidelines or proposed
22 regulations are issued pursuant to Section 56441.7. The
23 guidelines or proposed regulations shall be considered when
24 developing the caseload policy. A statement of justification shall
25 be attached if the local caseload policy exceeds state guidelines
26 or proposed regulations.

27 (c) The policies may include, but are not limited to, provisions
28 for involvement of district and county governing board members
29 in any due process hearing procedure activities conducted
30 pursuant to, and consistent with, state and federal law.

31 *SEC. 70. Section 56205 of the Education Code is amended to*
32 *read:*

33 56205. (a) Each special education local plan area submitting
34 a local plan to the ~~superintendent~~ *Superintendent* under this part
35 shall assure, in conformity with subsection (a) of Section 1412
36 of, and paragraph (1) of subsection (a) of Section 1413 of, Title
37 20 of the United States Code, that it has in effect policies,
38 procedures, and programs that are consistent with state laws,
39 regulations, and policies governing the following:

40 (1) Free appropriate public education.

- 1 (2) Full educational opportunity.
- 2 (3) Child find and referral.
- 3 (4) Individualized education programs, including
- 4 development, implementation, review, and revision.
- 5 (5) Least restrictive environment.
- 6 (6) Procedural safeguards.
- 7 (7) Annual and triennial ~~assessments~~ *evaluations*.
- 8 (8) Confidentiality.
- 9 (9) Transition from Subchapter III (commencing with Section
- 10 1431) of Title 20 of the United States Code to the preschool
- 11 program.
- 12 (10) Children in private schools.
- 13 (11) Compliance assurances, including general compliance
- 14 with the *federal* Individuals with Disabilities Education Act (20
- 15 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act
- 16 of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities
- 17 Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations
- 18 relating thereto, and this part.
- 19 (12) (A) A description of the governance and administration
- 20 of the plan, including identification of the governing body of a
- 21 multidistrict plan or the individual responsible for administration
- 22 in a single district plan, and of the elected officials to whom the
- 23 governing body or individual is responsible.
- 24 (B) A description of the regionalized operations and services
- 25 listed in Section 56836.23 and the direct instructional support
- 26 provided by program specialists in accordance with Section
- 27 56368 to be provided through the plan.
- 28 (C) Verification that a community advisory committee has
- 29 been established pursuant to Section 56190.
- 30 (D) Multidistrict plans, submitted pursuant to subdivision (b)
- 31 or (c) of Section 56195.1, shall do the following:
- 32 (i) Specify the responsibilities of each participating county
- 33 office and district governing board in the policymaking process,
- 34 the responsibilities of the superintendents of each participating
- 35 district and county in the implementation of the plan, and the
- 36 responsibilities of district and county administrators of special
- 37 education in coordinating the administration of the local plan.
- 38 (ii) Identify the respective roles of the administrative unit and
- 39 the administrator of the special education local plan area and the

- 1 individual local education agencies within the special education
2 local plan area in relation to the following:
- 3 (I) The hiring, supervision, evaluation, and discipline of the
4 administrator of the special education local plan area and staff
5 employed by the administrative unit in support of the local plan.
- 6 (II) The allocation from the state of federal and state funds to
7 the special education local plan area administrative unit or to
8 local education agencies within the special education local plan
9 area.
- 10 (III) The operation of special education programs.
- 11 (IV) Monitoring the appropriate use of federal, state, and local
12 funds allocated for special education programs.
- 13 (V) The preparation of program and fiscal reports required of
14 the special education local plan area by the state.
- 15 (iii) Include copies of joint powers agreements or contractual
16 agreements, as appropriate, for districts and counties that elect to
17 enter into those agreements pursuant to subdivision (b) or (c) of
18 Section 56195.1.
- 19 (E) The description of the governance and administration of
20 the plan, and the policymaking process, shall be consistent with
21 subdivision (f) of Section 56001, subdivision (a) of Section
22 56195.3, and Section 56195.9, and shall reflect a schedule of
23 regular consultations regarding policy and budget development
24 with representatives of special education and regular education
25 teachers and administrators selected by the groups they represent
26 and parent members of the community advisory committee
27 established pursuant to Article 7 (commencing with Section
28 56190) of Chapter 2.
- 29 (13) Comprehensive system of personnel development.
- 30 (14) Personnel standards, including standards for training and
31 supervision of paraprofessionals.
- 32 (15) Performance goals and indicators.
- 33 (16) Participation in state and districtwide assessments, and
34 reports relating to assessments.
- 35 (17) Supplementation of state, local, and other federal funds,
36 including nonsupplantation of funds.
- 37 (18) Maintenance of financial effort.
- 38 (19) Opportunities for public participation prior to adoption of
39 policies and procedures.
- 40 (20) Suspension and expulsion rates.

(b) Each local plan submitted to the ~~superintendent~~
Superintendent under this part shall also contain all the
following:

(1) An annual budget plan that shall be adopted at a public
hearing held by the special education local plan area. Notice of
this hearing shall be posted in each school in the local plan area
at least 15 days prior to the hearing. The annual budget plan may
be revised during any fiscal year according to the policymaking
process established pursuant to ~~subparagraph~~ *subparagraphs* (D)
and (E) of paragraph (12) of subdivision (a) and consistent with
subdivision (f) of Section 56001 and Section 56195.9. The
annual budget plan shall identify expected expenditures for all
items required by this part which shall include, but not be limited
to, the following:

(A) Funds received in accordance with Chapter 7.2
(commencing with Section 56836).

(B) Administrative costs of the plan.

(C) Special education services to pupils with severe
disabilities and low incidence disabilities.

(D) Special education services to pupils with nonsevere
disabilities.

(E) Supplemental aids and services to meet the individual
needs of pupils placed in regular education classrooms and
environments.

(F) Regionalized operations and services, and direct
instructional support by program specialists in accordance with
Article 6 (commencing with Section 56836.23) of Chapter 7.2.

(G) The use of property taxes allocated to the special
education local plan area pursuant to Section 2572.

(2) An annual service plan shall be adopted at a public hearing
held by the special education local plan area. Notice of this
hearing shall be posted in each school district in the special
education local plan area at least 15 days prior to the hearing.
The annual service plan may be revised during any fiscal year
according to the policymaking process established pursuant to
subparagraphs (D) and (E) of paragraph (12) of subdivision (a)
and consistent with subdivision (f) of Section 56001 and with
Section 56195.9. The annual service plan shall include a
description of services to be provided by each district and county
office, including the nature of the services and the physical

1 location at which the services will be provided, including
2 alternative schools, charter schools, opportunity schools and
3 classes, community day schools operated by school districts,
4 community schools operated by county offices of education, and
5 juvenile court schools, regardless of whether the district or
6 county office of education is participating in the local plan. This
7 description shall demonstrate that all ~~individuals~~ *pupils* with
8 ~~exceptional needs~~ *disabilities* shall have access to services and
9 instruction appropriate to meet their needs as specified in their
10 individualized education programs.

11 (3) A description of programs for early childhood special
12 education from birth through five years of age.

13 (4) A description of the method by which members of the
14 public, including parents or guardians of ~~individuals with~~
15 ~~exceptional needs~~ *pupils with disabilities* who are receiving
16 services under the plan, may address questions or concerns to the
17 governing body or individual identified in subparagraph (A) of
18 paragraph (12) of subdivision (a).

19 (5) A description of a dispute resolution process, including
20 mediation and final and binding arbitration to resolve disputes
21 over the distribution of funding, the responsibility for service
22 provision, and the other governance activities specified within
23 the plan.

24 (6) Verification that the plan has been reviewed by the
25 community advisory committee and that the committee had at
26 least 30 days to conduct this review prior to submission of the
27 plan to the superintendent.

28 (7) A description of the process being utilized to meet the
29 requirements of Section 56303.

30 (c) A description of the process being utilized to oversee and
31 evaluate placements in nonpublic, nonsectarian schools and the
32 method of ensuring that all requirements of each pupil's
33 individualized education program are being met. The description
34 shall include a method for evaluating whether the pupil is making
35 appropriate educational progress.

36 (d) The local plan, budget plan, and annual service plan shall
37 be written in language that is understandable to the general
38 public.

39 *SEC. 71. Section 56211 of the Education Code is amended to*
40 *read:*

56211. A special education local plan area submitting a local plan, pursuant to subdivision (c) of Section 56195.1, ~~which that~~ includes all of the school districts located in the county or counties submitting the plan, except those participating in a countywide special education local plan area located in an adjacent county, and ~~which that~~ meets the criteria for special education local plan areas with small populations set forth in Section 56212, is eligible to request that designation in its local plan application.

~~This section shall become operative on July 1, 1998.~~

SEC. 72. *Section 56212 of the Education Code is amended to read:*

56212. An eligible special education local plan area, which submits a local plan under the provisions of Section 56211, may request designation as a necessary small special education local plan area if its total reported units of average daily attendance in kindergarten and grades 1 to 12, inclusive, is less than 15,000, and if it includes all of the school districts located in the county or counties participating in the local plan, except those districts participating in a countywide special education local plan area located in an adjacent county that also meets the criteria of this section.

~~This section shall become operative on July 1, 1998.~~

SEC. 73. *Section 56241 of the Education Code is amended to read:*

56241. Staff development programs shall include, but not be limited to, all the following:

(a) Provision of opportunities for all school personnel, paraprofessionals, and volunteers to participate in ongoing development activities pursuant to a systematic identification of pupil and personnel needs.

(b) Be designed and implemented by classroom teachers and other participating school personnel, including the school principal. Teachers shall comprise the majority of any group designated to design local staff development programs for instructional personnel to be established pursuant to this part. Positive efforts shall be made to ensure the ~~individuals with exceptional needs~~ *pupils with disabilities* and parents of ~~such individuals~~ *those pupils* are involved in the design and implementation of staff development programs.

1 (c) Allowance for diversity in development activities,
2 including, but not limited to, small groups, self-directed learning,
3 and systematic observation during visits to other classrooms or
4 schools.

5 (d) Scheduling of time which is set aside for such purpose
6 throughout the school year, including, but not limited to, time
7 when participating school personnel are released from their
8 regular duties.

9 (e) Evaluation and modification on a continuing basis by
10 participating school personnel with the aid of outside personnel,
11 as necessary.

12 (f) Inclusion of the school principal and other administrative
13 personnel as active participants in one or more staff development
14 activities implemented pursuant to this chapter.

15 (g) Provision of a budget for reasonable and necessary
16 expenses, relating to staff development programs.

17 *SEC. 74. Section 56243 of the Education Code is amended to*
18 *read:*

19 56243. It is the intent of the Legislature, pursuant to this
20 article, that each district, special education local plan area, and
21 county office provide regular classroom teachers serving
22 ~~individuals with exceptional needs~~ *pupils with disabilities*
23 appropriate training each year relating to the needs of those
24 individuals.

25 *SEC. 75. Section 56244 of the Education Code is amended to*
26 *read:*

27 56244. ~~The superintendent~~ *Superintendent* shall, to the extent
28 possible using federal and state funds appropriated for this
29 purpose, provide staff development to child care center staff and
30 family day care providers to improve child care services to
31 ~~individuals with exceptional needs~~ *pupils with disabilities*.

32 *SEC. 76. Section 56300 of the Education Code is amended to*
33 *read:*

34 56300. Each district, special education local plan area, or
35 county office shall actively and systematically seek out all
36 ~~individuals with exceptional needs~~ *pupils with disabilities*, ages 0
37 through 21 years, ~~including children not enrolled in public school~~
38 ~~programs, who reside in the district or are under the jurisdiction~~
39 ~~of a special education local plan area or a county office who are~~
40 *enrolled in elementary schools, secondary schools, and private*

1 *schools, including parochial schools, within its area of*
2 *jurisdiction.*

3 *SEC. 77. Section 56301 of the Education Code is amended to*
4 *read:*

5 56301. (a) All ~~individuals~~ *pupils* with disabilities residing in
6 the state, including pupils with disabilities who are enrolled in
7 elementary and secondary schools and private schools, including
8 parochial schools, regardless of the severity of their disabilities,
9 and who are in need of special education and related services,
10 shall be identified, located, and ~~assessed~~ *evaluated* as required by
11 paragraph (3) and clause (ii) of paragraph (10) of subsection (a)
12 of Section 1412 of Title 20 of the United States Code.

13 (b) In accordance with Section 300.125 of Title 34 of the Code
14 of Federal Regulations, the requirements of this section also
15 apply to highly mobile ~~individuals with exceptional needs~~ *pupils*
16 *with disabilities*, such as migrant and homeless children, and
17 children who are suspected of being ~~an individual with~~
18 ~~exceptional needs~~ *a pupil with a disability* pursuant to Section
19 ~~56026~~ 56020 and in need of special education, even though they
20 are advancing from grade to grade.

21 (c) Each special education local plan area shall establish
22 written policies and procedures pursuant to Section 56205 for use
23 by its constituent local agencies for a continuous child-find
24 system that addresses the relationships among identification,
25 screening, referral, ~~assessment~~ *evaluation*, planning,
26 implementation, review, and the triennial ~~assessment~~ *evaluation*.
27 The policies and procedures shall include, but need not be limited
28 to, written notification of all parents of their rights under this
29 chapter, and the procedure for initiating a referral for ~~assessment~~
30 *evaluation* to identify ~~individuals with exceptional needs~~ *pupils*
31 *with disabilities*. Parents shall be given a copy of their rights and
32 procedural safeguards ~~upon initial referral for assessment, upon~~
33 ~~notice of an individualized education program meeting or~~
34 ~~reassessment, upon filing a complaint, and upon filing for a~~
35 ~~prehearing mediation conference pursuant to Section 56500.3 or~~
36 ~~a due process hearing request pursuant to Section 56502 pursuant~~
37 ~~to Section 56500.1.~~

38 (d) Child find data collected pursuant to this chapter, or
39 collected pursuant to a regulation or an interagency agreement,
40 are subject to the confidentiality requirements of Section 300.125

1 and Sections 300.560 to 300.577, inclusive, of Title 34 of the
2 Code of Federal Regulations.

3 *SEC. 78. Section 56302 of the Education Code is amended to*
4 *read:*

5 56302. Each district, special education local plan area, or
6 county office shall provide for the identification and ~~assessment~~
7 ~~evaluation of an individual's exceptional needs~~ a pupil's
8 disabilities, and the planning of an instructional program to meet
9 the ~~assessed~~ *evaluated* needs. Identification procedures shall
10 include systematic methods of utilizing referrals of pupils from
11 teachers, parents, agencies, appropriate professional persons, and
12 from other members of the public. Identification procedures shall
13 be coordinated with school site procedures for referral of pupils
14 with needs that cannot be met with modification of the regular
15 instructional program.

16 *SEC. 79. Section 56302.5 of the Education Code is repealed.*

17 ~~56302.5. The term "assessment," as used in this chapter, shall~~
18 ~~have the same meaning as the term "evaluation" in the~~
19 ~~Individuals with Disabilities Education Act, as provided in~~
20 ~~Section 1414 of Title 20 of the United States Code.~~

21 *SEC. 80. Section 56304 of the Education Code is repealed.*

22 ~~56304. The parents or guardians of a pupil who has been~~
23 ~~referred for initial assessment, or of a pupil already identified as~~
24 ~~an individual with exceptional needs, shall be afforded an~~
25 ~~opportunity to participate in meetings with respect to the~~
26 ~~identification, assessment, and educational placement, pursuant~~
27 ~~to Section 56342.5 and subsections (b) and (c) of Section~~
28 ~~56341.5, of the pupil and with respect to the provision of a free~~
29 ~~appropriate public education, as provided in Section 300.501 of~~
30 ~~Title 34 of the Code of Federal Regulations.~~

31 *SEC. 81. Section 56304 is added to the Education Code, to*
32 *read:*

33 56304. Each local educational agency or state educational
34 agency shall ensure that the parents of each pupil with a
35 disability are members of any group that makes decisions on the
36 educational placement of a pupil.

37 *SEC. 82. Section 56320 of the Education Code is repealed.*

38 ~~56320. Before any action is taken with respect to the initial~~
39 ~~placement of an individual with exceptional needs in special~~
40 ~~education instruction, an individual assessment of the pupil's~~

1 ~~educational needs shall be conducted, by qualified persons, in~~
2 ~~accordance with requirements including, but not limited to, all~~
3 ~~the following:~~

4 ~~(a) Testing and assessment materials and procedures used for~~
5 ~~the purposes of assessment and placement of individuals with~~
6 ~~exceptional needs are selected and administered so as not to be~~
7 ~~racially, culturally, or sexually discriminatory.~~

8 ~~(b) Tests and other assessment materials meet all the following~~
9 ~~requirements:~~

10 ~~(1) Are provided and administered in the pupil's native~~
11 ~~language, pursuant to Section 300.19 of Title 34 of the Code of~~
12 ~~Federal Regulations, or other mode of communication, unless the~~
13 ~~assessment plan indicates reasons why this provision and~~
14 ~~administration are not clearly feasible.~~

15 ~~(2) Have been validated for the specific purpose for which~~
16 ~~they are used.~~

17 ~~(3) Are administered by trained personnel in conformance~~
18 ~~with the instructions provided by the producer of the tests and~~
19 ~~other assessment materials, except that individually administered~~
20 ~~tests of intellectual or emotional functioning shall be~~
21 ~~administered by a credentialed school psychologist.~~

22 ~~(e) Tests and other assessment materials include those tailored~~
23 ~~to assess specific areas of educational need and not merely those~~
24 ~~which are designed to provide a single general intelligence~~
25 ~~quotient.~~

26 ~~(d) Tests are selected and administered to best ensure that~~
27 ~~when a test administered to a pupil with impaired sensory,~~
28 ~~manual, or speaking skills produces test results that accurately~~
29 ~~reflect the pupil's aptitude, achievement level, or any other~~
30 ~~factors the test purports to measure and not the pupil's impaired~~
31 ~~sensory, manual, or speaking skills unless those skills are the~~
32 ~~factors the test purports to measure.~~

33 ~~(e) Pursuant to subsection (f) of Section 300.532 of Title 34 of~~
34 ~~the Code of Federal Regulations, no single procedure is used as~~
35 ~~the sole criterion for determining whether a pupil is an individual~~
36 ~~with exceptional needs and for determining an appropriate~~
37 ~~educational program for the pupil.~~

38 ~~(f) The pupil is assessed in all areas related to the suspected~~
39 ~~disability including, if appropriate, health and development,~~
40 ~~vision, including low vision, hearing, motor abilities, language~~

1 function, ~~general intelligence, academic performance,~~
2 ~~communicative status, self-help, orientation and mobility skills,~~
3 ~~career and vocational abilities and interests, and social and~~
4 ~~emotional status. A developmental history is obtained, when~~
5 ~~appropriate. For pupils with residual vision, a low vision~~
6 ~~assessment shall be provided in accordance with guidelines~~
7 ~~established pursuant to Section 56136. In assessing each pupil~~
8 ~~under this article, the assessment shall be conducted in~~
9 ~~accordance with subsections (h), (i), and (j) of Section 300.532 of~~
10 ~~Title 34 of the Code of Federal Regulations.~~

11 ~~(g) The assessment of a pupil, including the assessment of a~~
12 ~~pupil with a suspected low incidence disability, shall be~~
13 ~~conducted by persons knowledgeable of that disability. Special~~
14 ~~attention shall be given to the unique educational needs,~~
15 ~~including, but not limited to, skills and the need for specialized~~
16 ~~services, materials, and equipment consistent with guidelines~~
17 ~~established pursuant to Section 56136.~~

18 ~~(h) As part of an initial assessment, if appropriate, and as part~~
19 ~~of any reassessment under Part B of the Individuals with~~
20 ~~Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and this~~
21 ~~part, the group that includes members of the individualized~~
22 ~~education program team, and other qualified professionals, as~~
23 ~~appropriate, shall follow the procedures specified in subsection~~
24 ~~(a) of Section 300.533 of Title 34 of the Code of Federal~~
25 ~~Regulations. The group may conduct its review without a~~
26 ~~meeting.~~

27 *SEC. 83. The heading of Article 2 (commencing with Section*
28 *56320) of Chapter 4 of Part 30 of the Education Code is*
29 *amended to read:*

30
31 *Article 2. Assessment Evaluation*
32

33 *SEC. 84. Section 56320 is added to the Education Code, to*
34 *read:*

35 *56320. The State Board of Education or the local educational*
36 *agency shall conduct a full and individual initial evaluation in*
37 *accordance with this article before the initial provision of special*
38 *education and related services to a pupil with a disability*
39 *pursuant to this part. In conducting the evaluation, all of the*
40 *following are applicable:*

1
2
3 (a) The local educational agency shall use a variety of
4 evaluation tools and strategies to gather relevant functional,
5 developmental, and academic information, including information
6 provided by the parent, that may assist in determining both of the
7 following:

8 (1) Whether the child is a pupil with a disability.

9 (2) The content of the pupil's individualized education
10 program, including information related to enabling the pupil to
11 be involved in and to progress in the general education
12 curriculum, or, for preschool children, to participate in
13 appropriate activities.

14 (b) The local educational agency may not use any single
15 measure or evaluation as the sole criterion for determining
16 whether a child is a pupil with a disability or for determining an
17 appropriate educational program for the pupil.

18 (c) The local educational agency shall use technically sound
19 instruments that may assess the relative contribution of cognitive
20 and behavioral factors, in addition to physical or developmental
21 factors.

22 SEC. 85. Section 56320.1 of the Education Code is repealed.

23 ~~56320.1. All identification, evaluation, and assessment~~
24 ~~procedures for individuals with exceptional needs who are~~
25 ~~younger than three years of age shall be provided pursuant to~~
26 ~~Chapter 4.4 (commencing with Section 56425) and the California~~
27 ~~Early Intervention Services Act, Title 14 (commencing with~~
28 ~~Section 95000) of the Government Code.~~

29 SEC. 86. Section 56320.1 is added to the Education Code, to
30 read:

31 56320.1. Each local educational agency shall ensure all of
32 the following:

33 (a) That the evaluation materials used to evaluate a child
34 under this section are all of the following:

35 (1) Selected and administered so as not to be discriminatory
36 on a racial or cultural basis.

37 (2) Provided and administered in the language and form most
38 likely to yield accurate information on what the child knows and
39 can do academically, developmentally, and functionally, unless it
40 is not feasible to so provide or administer.

1 (3) *Used for purposes for which the evaluations or measures*
2 *are valid and reliable.*

3 (4) *Administered by trained and knowledgeable personnel.*

4 (5) *Administered in accordance with any instructions provided*
5 *by the producer of the evaluations.*

6 (b) *That the child is evaluated in all areas of suspected*
7 *disability.*

8 (c) *That evaluation tools and strategies that provide relevant*
9 *information that directly assists persons in determining the*
10 *educational needs of the child are provided.*

11 (d) *That evaluations of pupils with disabilities who transfer*
12 *from one school district to another school district in the same*
13 *academic year are coordinated with the pupils' prior and*
14 *subsequent schools, as necessary and as expeditiously as*
15 *possible, to ensure prompt completion of full evaluations.*

16 SEC. 87. *Section 56320.2 is added to the Education Code, to*
17 *read:*

18 56320.2. *All identification and evaluation procedures for*
19 *pupils with disabilities who are younger than three years of age*
20 *shall be provided pursuant to Chapter 4.4 (commencing with*
21 *Section 56425) and the California Early Intervention Services*
22 *Act (Title 14 (commencing with Section 95000) of the*
23 *Government Code).*

24 SEC. 88. *Section 56321 of the Education Code is repealed.*

25 ~~56321. (a) If an assessment for the development or revision~~
26 ~~of the individualized education program is to be conducted, the~~
27 ~~parent or guardian of the pupil shall be given, in writing, a~~
28 ~~proposed assessment plan within 15 days of the referral for~~
29 ~~assessment not counting days between the pupil's regular school~~
30 ~~sessions or terms or days of school vacation in excess of five~~
31 ~~schooldays from the date of receipt of the referral, unless the~~
32 ~~parent or guardian agrees, in writing, to an extension. However,~~
33 ~~in any event, the assessment plan shall be developed within 10~~
34 ~~days after the commencement of the subsequent regular school~~
35 ~~year or the pupil's regular school term as determined by each~~
36 ~~district's school calendar for each pupil for whom a referral has~~
37 ~~been made 10 days or less prior to the end of the regular school~~
38 ~~year. In the case of pupil school vacations, the 15-day time shall~~
39 ~~recommence on the date that the pupil's regular schooldays~~
40 ~~reconvene. A copy of the notice of a parent's or guardian's rights~~

1 shall be attached to the assessment plan. A written explanation of
2 all the procedural safeguards under the Individuals with
3 Disabilities Education Act (20 U.S.C. Sec. 1400 and following),
4 and the rights and procedures contained in Chapter 5
5 (commencing with Section 56500), shall be included in the
6 notice of a parent's or guardian's rights, including information on
7 the procedures for requesting an informal meeting, prehearing
8 mediation conference, mediation conference, or due process
9 hearing; the timelines for completing each process; whether the
10 process is optional; and the type of representative who may be
11 invited to participate.

12 (b) The proposed assessment plan given to parents or
13 guardians shall meet all the following requirements:

14 (1) Be in language easily understood by the general public.

15 (2) Be provided in the native language of the parent or
16 guardian or other mode of communication used by the parent or
17 guardian, unless to do so is clearly not feasible.

18 (3) Explain the types of assessments to be conducted.

19 (4) State that no individualized education program will result
20 from the assessment without the consent of the parent.

21 (c) An assessment may not be conducted, unless the written
22 consent of the parent or guardian is obtained prior to the
23 assessment except pursuant to subdivision (c) of Section 56506.
24 The parent or guardian shall have at least 15 days from the
25 receipt of the proposed assessment plan to arrive at a decision.
26 Assessment may begin immediately upon receipt of the consent.

27 (d) Consent for initial assessment may not be construed as
28 consent for initial placement or initial provision of special
29 education and related services to an individual with exceptional
30 needs, pursuant to paragraph (2) of subsection (a) of Section
31 300.505 of Title 34 of the Code of Federal Regulations.

32 (e) In accordance with paragraph (3) of subsection (a) of
33 Section 300.505 of Title 34 of the Code of Federal Regulations,
34 parental consent is not required before reviewing existing data as
35 part of an assessment or reassessment, or before administering a
36 test or other assessment that is administered to all children,
37 unless before administration of that test or assessment, consent is
38 required of the parents of all the children.

39 *SEC. 89. Section 56321 is added to the Education Code, to*
40 *read:*

1 56321. (a) Either a parent of a child, or the State Board of
2 Education, other state agency, or local educational agency, may
3 initiate a request for an initial evaluation to determine if a child
4 is a pupil with a disability.

5 (b) The initial evaluation shall consist of procedures to do
6 both of the following:

7 (1) Determine whether a child is a pupil with a disability
8 within 60 days of receiving parental consent for the evaluation.

9 (2) Determine the educational needs of the child.

10 (c) The relevant timeframe in paragraph (1) of subdivision (b)
11 of this section shall not apply to a local educational agency if
12 either of the following is applicable:

13 (1) The child enrolls in a school served by the local
14 educational agency after the relevant timeframe in paragraph (1)
15 of subdivision (b) has begun and prior to a determination by the
16 child's previous local educational agency as to whether the child
17 is a child with a disability as defined in Section 1402 of Title 20
18 of the United States Code, but only if the subsequent local
19 educational agency is making sufficient progress to ensure a
20 prompt completion of the evaluation, and the parent and
21 subsequent local educational agency agree to a specific time
22 when the evaluation will be completed.

23 (2) The parent of a child repeatedly fails or refuses to produce
24 the child for the evaluation.

25 (d) The agency proposing to conduct an initial evaluation to
26 determine if the child qualifies as a pupil with a disability shall
27 obtain informed consent from the parent of the child before
28 conducting the evaluation. Parental consent for evaluation shall
29 not be construed as consent for placement for receipt of special
30 education and related services.

31 (e) An agency that is responsible for making a free
32 appropriate public education available to a pupil with a
33 disability under this part shall seek to obtain informed consent
34 from the parent of the child before providing special education
35 and related services to the child.

36 (f) If the parent of the child does not provide consent for an
37 initial evaluation under subdivision (d), or if the parent fails to
38 respond to a request to provide the consent, the local educational
39 agency may pursue the initial evaluation of the child by utilizing

1 *the procedures described in Section 1415 of Title 20 of the*
2 *United States Code.*

3 *(g) If the parent of the child refuses to consent to services*
4 *under paragraph (1) of subdivision (d), the local educational*
5 *agency shall not provide special education and related services*
6 *to the child by utilizing the procedures described in Section 1415*
7 *of Title 20 of the United States Code.*

8 *(h) If the parent of the child refuses to consent to the receipt of*
9 *special education and related services, or if the parent fails to*
10 *respond to a request to provide parental consent, both of the*
11 *following are applicable:*

12 *(1) The local educational agency shall not be considered to be*
13 *in violation of the requirement to make available a free*
14 *appropriate public education to the child for the failure to*
15 *provide the child with the special education and related services*
16 *for which the local educational agency requests parental*
17 *consent.*

18 *(2) The local educational agency shall not be required to*
19 *convene an IEP meeting or develop an IEP under this section for*
20 *the child for the special education and related services for which*
21 *the local educational agency requests parental consent.*

22 *(i) If the child is a ward of the court and is not residing with*
23 *his or her parent, the agency shall make reasonable efforts to*
24 *obtain the informed consent from the parent of the child for an*
25 *initial evaluation to determine whether the child is a pupil with a*
26 *disability.*

27 *(j) The agency shall not be required to obtain informed*
28 *consent from the parent of a child for an initial evaluation to*
29 *determine whether the child is a pupil with a disability if any of*
30 *the following is applicable:*

31 *(1) Despite reasonable efforts to do so, the agency cannot*
32 *discover the whereabouts of the parent of the child.*

33 *(2) The rights of the parents of the child have been terminated*
34 *in accordance with state law.*

35 *(3) The rights of the parent to make educational decisions*
36 *have been subrogated by a judge in accordance with state law*
37 *and consent for an initial evaluation has been given by an*
38 *individual appointed by the judge to represent the child.*

39 *(k) The screening of a pupil by a teacher or specialist to*
40 *determine appropriate instructional strategies for curriculum*

1 *implementation shall not be considered to be an evaluation for*
2 *eligibility for special education and related services.*

3 *(l) The local educational agency shall provide notice to the*
4 *parents of a child with a disability that describes any evaluation*
5 *procedures the agency proposes to conduct.*

6 *(m) As part of an initial evaluation and as part of any*
7 *reevaluation under this section, the IEP team and other qualified*
8 *professionals, as appropriate, shall do all of the following:*

9 *(1) Review existing evaluation data on the child, including all*
10 *of the following:*

11 *(A) Evaluations and information provided by the parents of*
12 *the child.*

13 *(B) Current classroom-based, local, or state assessments, and*
14 *classroom-based observations.*

15 *(C) Observations by teachers and related services providers.*

16 *(2) On the basis of that review, and input from the child's*
17 *parents, identify what additional data, if any, are needed to*
18 *determine all of the following:*

19 *(A) Whether the child is a pupil with a disability, and the*
20 *educational needs of the child, or, in case of a reevaluation of a*
21 *child, whether the pupil continues to have a disability and his or*
22 *her educational needs.*

23 *(B) The present levels of academic achievement and related*
24 *developmental needs of the child.*

25 *(C) Whether the child needs special education and related*
26 *services, or in the case of a reevaluation of a child, whether the*
27 *child continues to need special education and related services.*

28 *(D) Whether any additions or modifications to the special*
29 *education and related services are needed to enable the child to*
30 *meet the measurable annual goals set out in the individualized*
31 *education program of the child and to participate, as*
32 *appropriate, in the general education curriculum.*

33 *(n) The local educational agency shall administer the*
34 *assessments and other evaluation measures as may be needed to*
35 *produce the data identified by the IEP team.*

36 *(o) A copy of the procedural safeguards available to parents*
37 *of a child with a disability shall be given to the parents upon*
38 *initial referral or parental request for evaluation pursuant to*
39 *Section 56500.1.*

1 *SEC. 90. Section 56322 of the Education Code is amended to*
2 *read:*

3 56322. The ~~assessment~~ *evaluation* shall be conducted by
4 persons competent to perform the ~~assessment~~ *evaluation*, as
5 determined by the school district, county office, or special
6 education local plan area.

7 *SEC. 91. Section 56323 of the Education Code is repealed.*

8 ~~56323. Admission of a pupil to special education instruction~~
9 ~~shall be made only in accordance with this article, Article 2.5~~
10 ~~(commencing with Section 56333) and standards established by~~
11 ~~the board and upon a recommendation by the individualized~~
12 ~~education program team.~~

13 *SEC. 92. Section 56324 of the Education Code is amended to*
14 *read:*

15 56324. (a) Any psychological ~~assessment~~ *evaluation* of
16 pupils shall be made in accordance with Section 56320 and shall
17 be conducted by a credentialed school psychologist who is
18 trained and prepared to ~~assess~~ *evaluate* cultural and ethnic factors
19 appropriate to the pupil being ~~assessed~~ *evaluated*.

20 (b) Any health ~~assessment~~ *evaluation* of pupils shall be made
21 in accordance with Section 56320 and shall be conducted by a
22 credentialed school nurse or physician who is trained and
23 prepared to ~~assess~~ *evaluate* cultural and ethnic factors
24 appropriate to the pupil being ~~assessed~~ *evaluated*.

25 *SEC. 93. Section 56325 of the Education Code is repealed.*

26 ~~56325. (a) Whenever a pupil transfers into a school district~~
27 ~~from a school district not operating programs under the same~~
28 ~~local plan in which he or she was last enrolled in a special~~
29 ~~education program, the administrator of a local program under~~
30 ~~this part shall ensure that the pupil is immediately provided an~~
31 ~~interim placement for a period not to exceed 30 days. The interim~~
32 ~~placement must be in conformity with an individualized~~
33 ~~education program, unless the parent or guardian agrees~~
34 ~~otherwise. The individualized education program implemented~~
35 ~~during the interim placement may be either the pupil's existing~~
36 ~~individualized education program, implemented to the extent~~
37 ~~possible within existing resources, which may be implemented~~
38 ~~without complying with subdivision (a) of Section 56321, or a~~
39 ~~new individualized education program developed pursuant to~~
40 ~~Section 56321.~~

~~(b) Before the expiration of the 30-day period, the interim placement shall be reviewed by the individualized education program team and a final recommendation shall be made by the team in accordance with the requirements of this chapter. The team may utilize information, records, and reports from the school district or county program from which the pupil transferred.~~

~~(c) Commencing on July 1, 1998, whenever a pupil described in subdivision (a) was placed and residing in a residential nonpublic, nonsectarian school, prior to transferring to a school district in another special education local plan area, and this placement is not eligible for funding pursuant to Section 56836.16, the special education local plan area that contains the district that made the residential nonpublic, nonsectarian school placement shall continue to be responsible for the funding of the placement, including related services, for the remainder of the school year. An extended year session is included in the school year in which the session ends.~~

SEC. 94. Section 56325 is added to the Education Code, to read:

56325. (a) In the case of a pupil with a disability who transfers school districts within the state within the same academic year, who enrolls in a new school within the state, and who had an IEP that was in effect, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with federal and state law.

(b) In the case of a pupil with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another state, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency conducts an evaluation, if determined to be necessary by the agency, and develops a new IEP, if appropriate, that is consistent with federal and state law.

1 (c) To facilitate the transition for a pupil described in
2 subdivision (a), both of the following are applicable:

3 (1) The new school in which the pupil enrolls shall take
4 reasonable steps to promptly obtain the pupil's records,
5 including the IEP and supporting documents and any other
6 records relating to the provision of special education or related
7 services to the pupil, from the previous school in which the pupil
8 was enrolled, pursuant to Section 99.31(a)(2) of Title 34 of the
9 Code of Federal Regulations.

10 (2) The previous school in which the pupil was enrolled shall
11 take reasonable steps to promptly respond to the request from the
12 new school.

13 SEC. 95. Section 56326 of the Education Code is amended to
14 read:

15 56326. A pupil may be referred, as appropriate, for further
16 ~~assessment~~ evaluation and recommendations to the California
17 Schools for the Deaf or Blind or the Diagnostic Centers.

18 SEC. 96. Section 56327 of the Education Code is amended to
19 read:

20 56327. The personnel who ~~assess~~ evaluate the pupil shall
21 prepare a written report, or reports, as appropriate, of the results
22 of each ~~assessment~~ evaluation. The report ~~or reports~~ shall
23 include, but not be limited to, all the following:

24 (a) Whether the pupil may need special education and related
25 services.

26 (b) The basis for making the determination.

27 (c) The relevant behavior noted during the observation of the
28 pupil in an appropriate setting.

29 (d) The relationship of that behavior to the pupil's academic
30 and social functioning.

31 (e) The educationally relevant health and development, and
32 medical findings, if any.

33 (f) For pupils with learning disabilities, whether there is such
34 a discrepancy between achievement and ability that it cannot be
35 corrected without special education and related services.

36 (g) A determination concerning the effects of environmental,
37 cultural, or economic disadvantage, where appropriate.

38 (h) The need for specialized services, materials, and
39 equipment for pupils with low incidence disabilities, consistent
40 with guidelines established pursuant to Section 56136.

1 SEC. 97. *Section 56329 of the Education Code is amended to*
2 *read:*

3 56329. ~~As part of the assessment plan given to parents or~~
4 ~~guardians pursuant to Section 56321, the~~The parent or guardian
5 of the pupil shall be provided with a written notice that shall
6 include all of the following information:

7 (a) Upon completion of the administration of tests and other
8 ~~assessment~~ *evaluation* materials, an individualized education
9 program team meeting, including the parent or guardian and his
10 or her representatives, shall be scheduled, ~~pursuant to Section~~
11 ~~56341, to determine whether the pupil is an individual with~~
12 ~~exceptional needs as defined in Section 56026~~ *a pupil with a*
13 *disability*, and to discuss the ~~assessment~~ *evaluation*, the
14 educational recommendations, and the reasons for these
15 recommendations. A copy of the ~~assessment~~ *evaluation* report
16 and the documentation of determination of eligibility shall be
17 given to the parent or guardian.

18 (b) A parent or guardian has the right to obtain, at public
19 expense, an independent educational ~~assessment~~ *evaluation* of
20 the pupil from qualified specialists, as defined by regulations of
21 the board, if the parent or guardian disagrees with an ~~assessment~~
22 *evaluation* obtained by the public education agency, in
23 accordance with Section 300.502 of Title 34 of the Code of
24 Federal Regulations. If a public education agency observed the
25 pupil in conducting its ~~assessment~~ *evaluation*, or if its ~~assessment~~
26 *evaluation* procedures make it permissible to have in-class
27 observation of a pupil, an equivalent opportunity shall apply to
28 an independent educational ~~assessment~~ *evaluation* of the pupil in
29 the pupil's current educational placement and setting, and
30 observation of an educational placement and setting, if any,
31 proposed by the public education agency, regardless of whether
32 the independent educational ~~assessment~~ *evaluation* is initiated
33 before or after the filing of a due process hearing proceeding.

34 (c) (1) The public education agency may initiate a due process
35 hearing pursuant to Chapter 5 (commencing with Section 56500)
36 to show that its ~~assessment~~ *evaluation* is appropriate. If the final
37 decision resulting from the due process hearing is that the
38 ~~assessment~~ *evaluation* is appropriate, the parent or guardian still
39 has the right for an independent educational ~~assessment~~
40 *evaluation*, but not at public expense.

If
 (2) If the parent or guardian obtains an independent educational ~~assessment~~ *evaluation* at private expense, the results of the ~~assessment~~ *evaluation* shall be considered by the public education agency with respect to the provision of free, appropriate public education to the child, and may be presented as evidence at a due process hearing pursuant to Chapter 5 (commencing with Section 56500) regarding the child. If a public education agency observed the pupil in conducting its ~~assessment~~ *evaluation*, or if its ~~assessment~~ *evaluation* procedures make it permissible to have in-class observation of a pupil, an equivalent opportunity shall apply to an independent educational ~~assessment~~ *evaluation* of the pupil in the pupil's current educational placement and setting, and observation of an educational placement and setting, if any, proposed by the public education agency, regardless of whether the independent educational ~~assessment~~ *evaluation* is initiated before or after the filing of a due process hearing proceeding.

(d) If a parent or guardian proposes a publicly financed placement of the pupil in a nonpublic school, the public education agency shall have an opportunity to observe the proposed placement and the pupil in the proposed placement, if the pupil has already been unilaterally placed in the nonpublic school by the parent or guardian. Any observation conducted pursuant to this subdivision shall only be of the pupil who is the subject of the observation and may not include the observation or ~~assessment~~ *evaluation* of any other pupil in the proposed placement. The observation or ~~assessment~~ *evaluation* by a public education agency of a pupil other than the pupil who is the subject of the observation pursuant to this subdivision may be conducted, if at all, only with the consent of the parent or guardian pursuant to this article. The results of any observation or ~~assessment~~ *evaluation* of any other pupil in violation of this subdivision shall be inadmissible in any due process or judicial proceeding regarding the free appropriate public education of that other pupil.

SEC. 98. *Section 56330 of the Education Code is amended to read:*

56330. Each district, special education local plan area, or county office of education shall follow the procedures in Section

1 300.535 of Title 34 of the Code of Federal Regulations when
2 interpreting ~~assessment~~ *evaluation* data for the purpose of
3 determining if a child is ~~an individual with exceptional needs~~ *a*
4 *pupil with a disability* under Section 56026.

5 *SEC. 99. Section 56334 is added to the Education Code, to*
6 *read:*

7 *56334. (a) Upon completion of the administration of*
8 *evaluations and other evaluation measures both of the following*
9 *are applicable:*

10 *(1) The determination of whether the child is a pupil with a*
11 *disability as defined in Section 1402(3) of Title 20 of the United*
12 *States Code and the educational needs of the pupil shall be made*
13 *by a team of qualified professionals and the parent of the pupil.*

14 *(2) A copy of the evaluation report and the documentation of*
15 *determination of eligibility shall be given to the parent.*

16 *(b) In making a determination of eligibility paragraph (1) of*
17 *subdivision (a), a child shall not be determined to be a pupil with*
18 *a disability if the determinant factor for the determination is any*
19 *of the following:*

20 *(1) Lack of appropriate instruction in reading, including in the*
21 *essential components of reading instruction as defined in*
22 *subsection (3) of Section 6368 of the Elementary and Secondary*
23 *Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.).*

24 *(2) Lack of instruction in mathematics.*

25 *(3) Limited English proficiency.*

26 *SEC. 100. Section 56337 of the Education Code is repealed.*

27 ~~56337. A pupil shall be assessed as having a specific learning~~
28 ~~disability which makes him or her eligible for special education~~
29 ~~and related services when it is determined that all the following~~
30 ~~exist:~~

31 ~~(a) A severe discrepancy exists between the intellectual ability~~
32 ~~and achievements in one or more of the following academic~~
33 ~~areas:~~

34 ~~(1) Oral expression.~~

35 ~~(2) Listening comprehension.~~

36 ~~(3) Written expression.~~

37 ~~(4) Basic reading skills.~~

38 ~~(5) Reading comprehension.~~

39 ~~(6) Mathematics calculation.~~

40 ~~(7) Mathematics reasoning.~~

1 ~~(b) The discrepancy is due to a disorder in one or more of the~~
2 ~~basic psychological processes and is not the result of~~
3 ~~environmental, cultural, or economic disadvantages.~~

4 ~~(c) The discrepancy cannot be corrected through other regular~~
5 ~~or categorical services offered within the regular instructional~~
6 ~~program.~~

7 *SEC. 101. Section 56337 is added to the Education Code, to*
8 *read:*

9 *56337. (a) When determining whether a child has a specific*
10 *learning disability, a local educational agency shall not be*
11 *required to take into consideration whether a child has a severe*
12 *discrepancy between achievement and intellectual ability in oral*
13 *expression, listening comprehension, written expression, basic*
14 *reading skill, reading comprehension, mathematical calculation,*
15 *or mathematical reasoning.*

16 *(b) When determining whether a child has a specific learning*
17 *disability, a local educational agency may use a process that*
18 *determines if the child responds to scientific, research-based*
19 *intervention as a part of the evaluation procedures described in*
20 *Sections 56020 and 56020.1.*

21 *SEC. 102. Section 56337.5 of the Education Code is amended*
22 *to read:*

23 *56337.5. (a) A pupil who is ~~assessed~~ evaluated as being*
24 *dyslexic and who meets eligibility criteria specified in Section*
25 *56337 and subdivision (j) of Section 3030 of Title 5 of the*
26 *California Code of Regulations for the federal Individuals with*
27 *Disabilities Education Act (20 U.S.C. Sec. 1400 and following et*
28 *seq.) category of specific learning disabilities is entitled to*
29 *special education and related services.*

30 *(b) If a pupil who exhibits the characteristics of dyslexia or*
31 *another related reading dysfunction is not found to be eligible for*
32 *special education and related services pursuant to subdivision (a),*
33 *the pupil's instructional program shall be provided in the regular*
34 *education program.*

35 *(c) It is the intent of the Legislature that the program*
36 *guidelines developed pursuant to Section 2 of Chapter 1501 of*
37 *the Statutes of 1990, for specific learning disabilities, including*
38 *dyslexia and other related disorders, be available for use by*
39 *teachers and parents in order for them to have knowledge of the*

1 strategies that can be utilized with pupils for the remediation of
2 the various types of specific learning disabilities.

3 *SEC. 103. Section 56339.1 is added to the Education Code, to*
4 *read:*

5 *56339.1. (a) If the IEP team and other qualified*
6 *professionals, as appropriate, determine that no additional data*
7 *are needed to determine whether the child continues to be a pupil*
8 *with a disability and to determine the child's educational needs,*
9 *the local educational agency shall notify the child's parents of*
10 *that determination, of the reasons for the determination, of the*
11 *right of the parents to request an evaluation to determine*
12 *whether the child continues to be a pupil with a disability and to*
13 *determine the child's educational needs.*

14 *(b) The local educational agency shall not be required to*
15 *conduct the evaluation described in subdivision (a) unless*
16 *requested by the child's parents.*

17 *SEC. 104. Section 56339.2 is added to the Education Code, to*
18 *read:*

19 *56339.2. (a) Except as provided in subdivision (b), a local*
20 *educational agency shall evaluate a pupil with a disability in*
21 *accordance with this section before determining that the child is*
22 *no longer a pupil with a disability.*

23 *(b) (1) The evaluation described in subdivision (a) shall not*
24 *be required before the termination of eligibility of a pupil under*
25 *this part due to graduation from secondary school with a regular*
26 *diploma, or due to exceeding the age eligibility for a free*
27 *appropriate public education.*

28 *(2) For a pupil whose eligibility under this part terminates*
29 *under circumstances described in paragraph (1), a local*
30 *educational agency shall provide the pupil with a summary of his*
31 *or her academic achievement and functional performance, which*
32 *shall include recommendations on the manner in which to assist*
33 *him or her in meeting the child's postsecondary goals.*

34 *SEC. 105. Section 56341 of the Education Code is repealed.*

35 ~~56341. (a) Each meeting to develop, review, or revise the~~
36 ~~individualized education program of an individual with~~
37 ~~exceptional needs shall be conducted by an individualized~~
38 ~~education program team.~~

39 ~~(b) The individualized education program team shall include~~
40 ~~all of the following:~~

1 ~~(1) One or both of the pupil's parents, a representative selected~~
2 ~~by a parent, or both, in accordance with the Individuals with~~
3 ~~Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).~~

4 ~~(2) At least one regular education teacher of the pupil, if the~~
5 ~~pupil is, or may be, participating in the regular education~~
6 ~~environment. If more than one regular education teacher is~~
7 ~~providing instructional services to the individual with exceptional~~
8 ~~needs, one regular education teacher may be designated by the~~
9 ~~district, special education local plan area, or county office to~~
10 ~~represent the others.~~

11 ~~The regular education teacher of an individual with exceptional~~
12 ~~needs shall, to the extent appropriate, participate in the~~
13 ~~development, review, and revision of the pupil's individualized~~
14 ~~education program, including assisting in the determination of~~
15 ~~appropriate positive behavioral interventions and strategies for~~
16 ~~the pupil and supplementary aids and services, and program~~
17 ~~modifications or supports for school personnel that will be~~
18 ~~provided for the pupil, consistent with paragraph (3) of~~
19 ~~subsection (a) of Section 300.347 of Title 34 of the Code of~~
20 ~~Federal Regulations.~~

21 ~~(3) At least one special education teacher of the pupil, or if~~
22 ~~appropriate, at least one special education provider of the pupil.~~

23 ~~(4) A representative of the district, special education local plan~~
24 ~~area, or county office who meets all of the following:~~

25 ~~(A) Is qualified to provide, or supervise the provision of,~~
26 ~~specially designed instruction to meet the unique needs of~~
27 ~~individuals with exceptional needs.~~

28 ~~(B) Is knowledgeable about the general curriculum.~~

29 ~~(C) Is knowledgeable about the availability of resources of the~~
30 ~~local educational agency.~~

31 ~~(5) An individual who conducted an assessment of the pupil or~~
32 ~~who is knowledgeable about the assessment procedures used to~~
33 ~~assess the pupil, and is familiar with the assessment results or~~
34 ~~recommendations. The individual shall be qualified to interpret~~
35 ~~the instructional implications of the assessment results. The~~
36 ~~individual may be a member of the team described in paragraphs~~
37 ~~(2) to (6), inclusive.~~

38 ~~(6) At the discretion of the parent, guardian, or the district,~~
39 ~~special education local plan area, or county office, other~~
40 ~~individuals who have knowledge or special expertise regarding~~

1 the pupil, including related services personnel, as appropriate.
2 The determination of whether the individual has knowledge or
3 special expertise regarding the pupil shall be made by the party
4 who invites the individual to be a member of the individualized
5 education program team.

6 ~~(7) Whenever appropriate, the individual with exceptional~~
7 ~~needs.~~

8 ~~(e) For a pupil suspected of having a specific learning~~
9 ~~disability, at least one member of the individualized education~~
10 ~~program team shall be qualified to conduct individual diagnostic~~
11 ~~examinations of children, such as a school psychologist,~~
12 ~~speech-language pathologist, or remedial reading teacher. At~~
13 ~~least one team member other than the pupil's regular teacher~~
14 ~~shall observe the pupil's academic performance in the regular~~
15 ~~classroom setting. In the case of a child who is less than~~
16 ~~schoolage or out of school, a team member shall observe the~~
17 ~~child in an environment appropriate for a child of that age.~~

18 ~~(d) (1) In the case of transition services, the district, special~~
19 ~~education local plan area, or county office shall invite an~~
20 ~~individual with exceptional needs of any age to attend his or her~~
21 ~~individualized education program meeting if a purpose of the~~
22 ~~meeting will be the consideration of either, or both, of the~~
23 ~~following:~~

24 ~~(A) The individual's transition service needs under~~
25 ~~subdivision (a) of Section 56345.1.~~

26 ~~(B) The needed transition services for the individual under~~
27 ~~subdivision (b) of Section 56345.1.~~

28 ~~(2) If the individual with exceptional needs does not attend the~~
29 ~~individualized education program meeting, the district, special~~
30 ~~education local plan area, or county office shall take steps to~~
31 ~~ensure that the individual's preferences and interests are~~
32 ~~considered.~~

33 ~~(3) When implementing the requirements of subdivision (b) of~~
34 ~~Section 56345.1, the district, special education local plan area, or~~
35 ~~county office also shall invite to the individualized education~~
36 ~~program team meetings a representative that is likely to be~~
37 ~~responsible for providing or paying for transition services. If an~~
38 ~~agency invited to send a representative to a meeting does not do~~
39 ~~so, the district, special education local plan area, or county office~~

1 shall take other steps to obtain participation of the other agency
2 in the planning of any transition services.

3 (e) ~~A district, special education local plan area, or county~~
4 ~~office may designate another local educational agency member~~
5 ~~of the individualized education program team to serve also as the~~
6 ~~representative required pursuant to paragraph (4) of subdivision~~
7 ~~(b) if the requirements of subparagraphs (A), (B), and (C) of~~
8 ~~paragraph (4) of subdivision (b) are met.~~

9 *SEC. 106. Section 56341 is added to the Education Code, to*
10 *read:*

11 *56341. (a) The term “individualized education program*
12 *team” or “IEP team” means a group of individuals composed of*
13 *all of the following:*

14 *(1) The parents of a child with a disability.*

15 *(2) Not less than one regular education teacher of the child if*
16 *the child is, or may be, participating in the regular education*
17 *environment.*

18 *(3) Not less than one special education teacher, or where*
19 *appropriate, not less than one special education provider of the*
20 *child.*

21 *(4) A representative of the local educational agency who is all*
22 *of the following:*

23 *(A) Qualified to provide, or supervise the provision of,*
24 *specially designed instruction to meet the unique needs of*
25 *children with disabilities.*

26 *(B) Knowledgeable about the general education curriculum.*

27 *(C) Knowledgeable about the availability of resources of the*
28 *local educational agency.*

29 *(5) An individual who can interpret the instructional*
30 *implications of evaluation results, who may be a member of the*
31 *team described in paragraph (1), (2), (3), or (4).*

32 *(6) At the discretion of the parent or the agency, other*
33 *individuals who have knowledge or special expertise regarding*
34 *the child, including related services personnel as appropriate.*

35 *(7) Whenever appropriate, the pupil with a disability.*

36 *(b) A member of the IEP team shall not be required to attend*
37 *an IEP meeting, in whole or in part, if the parent of a pupil with*
38 *a disability and the local educational agency agree that the*
39 *attendance of the member is not necessary because the member’s*

1 area of the curriculum or related services is not being modified
2 or discussed in the meeting.

3 (c) A member of the IEP team may be excused from attending
4 an IEP meeting, in whole or in part, if the meeting involves a
5 modification to or discussion of the member's area of the
6 curriculum or related services, if both of the following are
7 applicable:

8 (1) The parent and the local educational agency consent to the
9 excusal.

10 (2) The member submits, in writing to the parent and to the
11 IEP team, input into the development of the IEP prior to the
12 meeting.

13 (d) A parent's agreement under subdivision (b) and consent
14 under subdivision (c) shall be in writing.

15 (e) When conducting IEP team meetings and placement
16 meetings pursuant to this section, and carrying out
17 administrative matters under Section 1415 of Title 20 of the
18 United States Code, such as scheduling, exchange of witness
19 lists, and status conferences, the parent of a pupil with a
20 disability and a local educational agency may agree to use
21 alternative means of meeting participation, such as video
22 conferences and conference calls.

23 SEC. 107. Section 56341.1 of the Education Code is repealed.

24 ~~56341.1. (a) When developing each pupil's individualized~~
25 ~~education program, the individualized education program team~~
26 ~~shall consider the following:~~

27 ~~(1) The strengths of the pupil and the concerns of the parents~~
28 ~~or guardians for enhancing the education of the pupil.~~

29 ~~(2) The results of the initial assessment or most recent~~
30 ~~assessment of the pupil.~~

31 ~~(3) As appropriate, the results of the pupil's performance on~~
32 ~~any general state or districtwide assessment programs.~~

33 ~~(b) The individualized education program team shall do the~~
34 ~~following:~~

35 ~~(1) In the case of a pupil whose behavior impedes his or her~~
36 ~~learning or that of others, consider, when appropriate, strategies,~~
37 ~~including positive behavioral interventions, strategies, and~~
38 ~~supports to address that behavior.~~

1 ~~(2) In the case of a pupil with limited English proficiency,~~
2 ~~consider the language needs of the pupil as those needs relate to~~
3 ~~the pupil's individualized education program.~~

4 ~~(3) In the case of a pupil who is blind or visually impaired,~~
5 ~~provide for instruction in braille and the use of braille unless the~~
6 ~~individualized education program team determines, after an~~
7 ~~assessment of the pupil's reading and writing skills, needs, and~~
8 ~~appropriate reading and writing media, including an assessment~~
9 ~~of the pupil's future needs, that instruction in braille is not~~
10 ~~appropriate for the pupil.~~

11 ~~(4) Consider the communication needs of the pupil, and in the~~
12 ~~case of the pupil who is deaf or hard of hearing, consider the~~
13 ~~pupil's language and communication needs, opportunities for~~
14 ~~direct communications with peers and professional personnel in~~
15 ~~the pupil's language and communication mode, academic level,~~
16 ~~and full range of needs, including opportunities for direct~~
17 ~~instruction in the pupil's language and communication mode.~~

18 ~~(5) Consider whether the pupil requires assistive technology~~
19 ~~devices and services.~~

20 ~~(c) If, in considering the special factors described in~~
21 ~~subdivisions (a) and (b), the individualized education program~~
22 ~~team determines that a pupil needs a particular device or service,~~
23 ~~including an intervention, accommodation, or other program~~
24 ~~modification, in order for the pupil to receive a free appropriate~~
25 ~~public education, the individualized education program team~~
26 ~~shall include a statement to that effect in the pupil's~~
27 ~~individualized education program.~~

28 ~~(d) The individualized education program team shall revise the~~
29 ~~individualized education program, as appropriate, to address~~
30 ~~among other matters the following:~~

31 ~~(1) Any lack of expected progress toward the annual goals and~~
32 ~~in the general curriculum, where appropriate.~~

33 ~~(2) The results of any reassessment conducted pursuant to~~
34 ~~Section 56381.~~

35 ~~(3) Information about the pupil provided to, or by, the parents~~
36 ~~or guardians, as described in subdivision (b) of Section 56381.~~

37 ~~(4) The pupil's anticipated needs.~~

38 ~~(5) The factors described in subdivision (a).~~

39 ~~(e) The parent or guardian shall have the right to present~~
40 ~~information to the individualized education program team in~~

1 person or through a representative and the right to participate in
2 meetings, relating to eligibility for special education and related
3 services, recommendations, and program planning.

4 ~~(f) (1) Notwithstanding Section 632 of the Penal Code, the~~
5 ~~parent or guardian, district, special education local plan area, or~~
6 ~~county office shall have the right to record electronically the~~
7 ~~proceedings of individualized education program team meetings~~
8 ~~on an audiotape recorder. The parent or guardian, district, special~~
9 ~~education local plan area, or county office shall notify the~~
10 ~~members of the individualized education program team of their~~
11 ~~intent to record a meeting at least 24 hours prior to the meeting.~~
12 ~~If the district, special education local plan area, or county office~~
13 ~~initiates the notice of intent to audiotape record a meeting and the~~
14 ~~parent or guardian objects or refuses to attend the meeting~~
15 ~~because it will be tape recorded, then the meeting shall not be~~
16 ~~recorded on an audiotape recorder.~~

17 ~~(2) The Legislature hereby finds as follows:~~

18 ~~(A) Under federal law, audiotape recordings made by a~~
19 ~~district, special education local plan area, or county office are~~
20 ~~subject to the federal Family Educational Rights and Privacy Act~~
21 ~~(20 U.S.C. Sec. 1232g), and would, therefore, be subject to the~~
22 ~~confidentiality requirements of the regulations under Sections~~
23 ~~300.560 to 300.575, inclusive, of Part 34 of the Code of Federal~~
24 ~~Regulations.~~

25 ~~(B) Parents or guardians have the right, pursuant to Sections~~
26 ~~99.10 to 99.22, inclusive, of Title 34 of the Code of Federal~~
27 ~~Regulations, to do all of the following:~~

28 ~~(i) Inspect and review the tape recordings.~~

29 ~~(ii) Request that the tape recordings be amended if the parent~~
30 ~~or guardian believes that they contain information that is~~
31 ~~inaccurate, misleading, or in violation of the rights of privacy or~~
32 ~~other rights of the individual with exceptional needs.~~

33 ~~(iii) Challenge, in a hearing, information that the parent or~~
34 ~~guardian believes is inaccurate, misleading, or in violation of the~~
35 ~~individual's rights of privacy or other rights.~~

36 ~~(g) It is the intent of the Legislature that the individualized~~
37 ~~education program team meetings be nonadversarial and~~
38 ~~convened solely for the purpose of making educational decisions~~
39 ~~for the good of the individual with exceptional needs.~~

1 *SEC. 108. Section 56341.1 is added to the Education Code, to*
2 *read:*

3 *56341.1. (a) In developing each child's IEP, the IEP team*
4 *shall consider all of the following:*

5 *(1) The strengths of the child.*

6 *(2) The concerns of the parents for enhancing the education of*
7 *their child.*

8 *(3) The results of the initial evaluation or most recent*
9 *evaluation of the child.*

10 *(4) the academic, developmental, and functional needs of the*
11 *child.*

12 *(b) The IEP team shall do all of the following:*

13 *(1) In the case of a child whose behavior impedes the child's*
14 *learning or that of others, consider the use of positive behavioral*
15 *interventions and supports, and other strategies, to address that*
16 *behavior.*

17 *(2) In the case of a child with limited English proficiency,*
18 *consider the language needs of the child as those needs relate to*
19 *the child's IEP.*

20 *(3) In the case of a child who is visually impaired, provide for*
21 *instruction in braille and the use of braille, unless the IEP team*
22 *determines, after an evaluation of the child's reading and writing*
23 *skills, needs, and appropriate reading and writing media,*
24 *including an evaluation of the child's future needs for instruction*
25 *in braille or the use of braille, that instruction in braille or the*
26 *use of braille is not appropriate for the child.*

27 *(4) Consider the communication needs of the child, and in the*
28 *case of a child who is deaf or hearing impaired, consider the*
29 *child's language and communication needs, opportunities for*
30 *direct communications with peers and professional personnel in*
31 *the child's language and communication mode, academic level,*
32 *and full range of needs, including opportunities for direct*
33 *instruction in the child's language and communication mode.*

34 *(5) Consider whether the child needs assistive technology*
35 *devices and services.*

36 *(c) A regular education teacher of the child, as a member of*
37 *the IEP team, shall, to the extent appropriate, participate in the*
38 *development of the IEP of the child, including the determination*
39 *of appropriate positive behavioral interventions and supports,*
40 *and other strategies, and the determination of supplementary*

1 *aids and services, program modifications, and support for school*
2 *personnel consistent with federal law.*

3 *(d) The Legislature hereby finds as follows:*

4 *(1) Under federal law, audiotape recordings made by a*
5 *district, special education local plan area, or county office are*
6 *subject to the federal Family Educational Rights and Privacy Act*
7 *(20 U.S.C. Sec. 1232g), and would, therefore, be subject to the*
8 *confidentiality requirements of the regulations under Sections*
9 *300.560 to 300.575, inclusive, of Part 34 of the Code of Federal*
10 *Regulations.*

11 *(2) Parents or guardians have the right, pursuant to Sections*
12 *99.10 to 99.22, inclusive, of Title 34 of the Code of Federal*
13 *Regulations, to do all of the following:*

14 *(A) Inspect and review the tape recordings.*

15 *(B) Request that the tape recordings be amended if the parent*
16 *or guardian believes that they contain information that is*
17 *inaccurate, misleading, or in violation of the rights of privacy or*
18 *other rights of the individual with exceptional needs.*

19 *(C) Challenge, in a hearing, information that the parent or*
20 *guardian believes is inaccurate, misleading, or in violation of the*
21 *individual's rights of privacy or other rights.*

22 *(e) It is the intent of the Legislature that the individualized*
23 *education program team meetings be nonadversarial and*
24 *convened solely for the purpose of making educational decisions*
25 *for the good of a pupil with a disability.*

26 *SEC. 109. Section 56341.2 of the Education Code is amended*
27 *to read:*

28 *56341.2. (a) In the case of a pupil ~~with exceptional needs~~*
29 *with a disability who has been placed in a group home, as*
30 *defined in subdivision (g) of Section 80001 of Title 22 of the*
31 *California Code of Regulations, by the juvenile court pursuant to*
32 *Section 300, 601, or 602 of the Welfare and Institutions Code,*
33 *the district, special education local plan area, or county office*
34 *shall invite to the individualized education program team*
35 *meetings a representative of the group home.*

36 *(b) This section shall not be construed to delay the*
37 *individualized education program process or to change the*
38 *individualized education program team requirements of*
39 *subdivision (b) of Section 56341.*

1 *SEC. 110. Section 56341.3 is added to the Education Code, to*
2 *read:*

3 56341.3. (a) *In making changes to a child's IEP after the*
4 *annual IEP meeting for a school year, the parent of a pupil with*
5 *a disability and the local educational agency may agree not to*
6 *convene an IEP meeting for the purposes of making those*
7 *changes, and instead may develop a written document to amend*
8 *or modify the pupil's operative IEP.*

9 (b) *To the extent possible, the local educational agency shall*
10 *encourage the consolidation of reevaluation meetings for the*
11 *pupil and other IEP team meetings for the pupil.*

12 (c) *Changes to the IEP may be made either by the entire IEP*
13 *team or, as provided in subdivision (a), by amending the IEP*
14 *rather than by redrafting the entire IEP. Upon request, a parent*
15 *shall be provided with a revised copy of the IEP with the*
16 *amendments incorporated.*

17 *SEC. 111. Section 56341.5 of the Education Code is amended*
18 *to read:*

19 56341.5. (a) *Each local educational agency convening a*
20 *meeting of the individualized education program team shall take*
21 *steps to ensure that no less than one of the parents or guardians of*
22 ~~*the individual with exceptional needs*~~ *pupil with a disability are*
23 *present at each individualized education program meeting or are*
24 *afforded the opportunity to participate.*

25 (b) *Parents or guardians shall be notified of the individualized*
26 *education program meeting early enough to ensure an*
27 *opportunity to attend.*

28 (c) *The individualized education program meeting shall be*
29 *scheduled at a mutually agreed-upon time and place. The notice*
30 *of the meeting under subdivision (b) shall indicate the purpose,*
31 *time, and location of the meeting and who shall be in attendance.*
32 *Parents or guardians shall also be informed in the notice of the*
33 *right, pursuant to clause (ii) of paragraph (1) of subsection (b) of*
34 *Section 300.345 of Title 34 of the Code of Federal Regulations,*
35 *to bring other people to the meeting who have knowledge or*
36 *special expertise regarding the*~~*individual with exceptional needs*~~
37 ~~*pupil with a disability.*~~

38 (d) *As part of the participation of an*~~*individual with*~~
39 ~~*exceptional needs*~~ *a pupil with a disability in the individualized*
40 *education program process, as required by federal law, the*

1 ~~individual with exceptional needs~~ *pupil with a disability* shall be
2 allowed to provide confidential input to any representative of his
3 or her individualized education program team.

4 (e) For ~~an individual with exceptional needs~~ *a pupil with a*
5 *disability* beginning at age ~~14~~ 16, or younger, if appropriate, the
6 meeting notice shall also indicate that a purpose of the meeting
7 will be the development of a statement of the transition services
8 needs of the ~~individual~~ *pupil* required by subdivision (a) of
9 Section 56345.1 and indicate that the ~~individual with exceptional~~
10 ~~needs~~ *pupil with a disability* is also invited to attend. In
11 accordance with paragraph (3) of subsection (b) of Section
12 300.345 of the Code of Federal Regulations, for ~~an individual~~
13 ~~with exceptional needs~~ *a pupil with a disability* beginning at 16
14 years of age or younger, if appropriate, the meeting notice shall
15 also indicate that a purpose of the meeting is the consideration of
16 needed transition services for the ~~individual~~ *pupil* required by
17 subdivision (b) of Section 56345.1 and indicate that the
18 ~~individual with exceptional needs~~ *pupil with a disability* is
19 invited to attend. If the pupil does not attend the individualized
20 education program meeting, the local educational agency shall
21 take steps to ensure that the pupil's preferences and interests are
22 considered in accordance with paragraph (2) of subsection (b) of
23 Section 300.344 of Title 34 of the Code of Federal Regulations.

24 (f) The meeting notice shall also identify any other local
25 agency in accordance with paragraph (3) of subsection (b) of
26 Section 300.344 of Title 34 of the Code of Federal Regulations.

27 (g) If no parent or guardian can attend the meeting, the local
28 educational agency shall use other methods to ensure parent or
29 guardian participation, including individual or conference
30 telephone calls.

31 (h) A meeting may be conducted without a parent or guardian
32 in attendance if the local educational agency is unable to
33 convince the parent or guardian that he or she should attend. In
34 this event, the local educational agency shall maintain a record of
35 its attempts to arrange a mutually agreed-upon time and place, as
36 follows:

37 (1) Detailed records of telephone calls made or attempted and
38 the results of those calls.

39 (2) Copies of correspondence sent to the parents or guardians
40 and any responses received.

1 (3) Detailed records of visits made to the home or place of
2 employment of the parent or guardian and the results of those
3 visits.

4 (i) The local educational agency shall take whatever action is
5 necessary to ensure that the parent or guardian understands the
6 proceedings at a meeting, including arranging for an interpreter
7 for parents or guardians with deafness or whose native language
8 is a language other than English.

9 (j) The local educational agency shall give the parent or
10 guardian a copy of the individualized education program, at no
11 cost to the parent or guardian.

12 *SEC. 112. Section 56342 of the Education Code is amended*
13 *to read:*

14 56342. (a) The individualized education program team shall
15 review the ~~assessment~~ *evaluation* results, determine eligibility,
16 determine the content of the individualized education program,
17 consider local transportation policies and criteria developed
18 pursuant to paragraph (5) of subdivision (b) of Section 56195.8,
19 and make program placement recommendations.

20 (b) In determining the program placement of ~~an individual~~
21 ~~with exceptional needs~~ *a pupil with a disability*, each district,
22 special education local plan area, or county office shall ensure
23 that the placement decisions and the child's placement are made
24 in accordance with Sections 300.550 to 300.554, inclusive, of
25 Title 34 of the Code of Federal Regulations.

26 *SEC. 113. Section 56342.1 of the Education Code is amended*
27 *to read:*

28 56342.1. Before a district, special education local plan area,
29 or county office places ~~an individual with exceptional needs~~ *a*
30 *pupil with a disability* in, or refers an individual to, a nonpublic,
31 nonsectarian school pursuant to Section 56365, the district,
32 special education local plan area, or county office shall initiate
33 and conduct a meeting to develop an individualized education
34 program in accordance with Sections 56341.1 and 56345 in
35 accordance with paragraphs (1) and (2) of subsection (a) of
36 Section 300.349 of Title 34 of the Code of Federal Regulations.

37 *SEC. 114. Section 56342.5 of the Education Code is amended*
38 *to read:*

39 56342.5. Each district, special education local plan area, or
40 county office shall ensure that the parent of each ~~individual~~ *pupil*

1 with ~~exceptional needs~~ *a disability* is a member of any group that
2 makes decisions on the educational placement of the ~~individual~~
3 ~~with exceptional needs~~ *pupil*.

4 *SEC. 115. Section 56343 of the Education Code is amended*
5 *to read:*

6 56343. An individualized education program team shall meet
7 whenever any of the following occurs:

8 (a) A pupil has received an initial formal ~~assessment~~
9 *evaluation*. The team may meet when a pupil receives any
10 subsequent formal ~~assessment~~ *evaluation*.

11 (b) The pupil demonstrates a lack of anticipated progress.

12 (c) The parent or teacher requests a meeting to develop,
13 review, or revise the individualized education program.

14 (d) At least annually, to review the pupil's progress, the
15 individualized education program, including whether the annual
16 goals for the pupil are being achieved, and the appropriateness of
17 placement, and to make any necessary revisions. The
18 individualized education program team conducting the annual
19 review shall consist of those persons specified in subdivision (b)
20 of Section 56341. Other individuals may participate in the annual
21 review if they possess expertise or knowledge essential for the
22 review.

23 *SEC. 116. Section 56344 of the Education Code is amended*
24 *to read:*

25 56344. (a) An individualized education program required as
26 a result of an ~~assessment~~ *evaluation* of a pupil shall be developed
27 within a total time not to exceed ~~50~~ 60 days, not counting days
28 between the pupil's regular school sessions, terms, or days of
29 school vacation in excess of five schooldays, from the date of
30 receipt of the parent's written consent for ~~assessment~~ *evaluation*,
31 unless the parent agrees, in writing, to an extension. However, an
32 individualized education program required as a result of an
33 ~~assessment~~ *evaluation* of a pupil shall be developed within 30
34 days after the commencement of the subsequent regular school
35 year as determined by each district's school calendar for each
36 pupil for whom a referral has been made 20 days or less prior to
37 the end of the regular school year. In the case of pupil school
38 vacations, the 50-day time shall recommence on the date that
39 pupil schooldays reconvene. A meeting to develop an initial
40 individualized education program for the pupil shall be

1 conducted within 30 days of a determination that the pupil needs
2 special education and related services pursuant to paragraph (2)
3 of subsection (b) of Section 300.343 of Title 34 of the Code of
4 Federal Regulations.

5 ~~(b) Each district, special education local plan area, or county~~
6 ~~office shall have an individualized education program in effect~~
7 ~~for each individual with exceptional needs within its jurisdiction~~
8 ~~at the beginning of each school year in accordance with~~
9 ~~subdivision (a) and pursuant to subsections (a) and (b) of Section~~
10 ~~300.342 of Title 34 of the Code of Federal Regulations. At the~~
11 ~~beginning of each school year, each local educational agency,~~
12 ~~state educational agency, or other state agency, as the case may~~
13 ~~be, shall have in effect, for each pupil with a disability in the~~
14 ~~agency's jurisdiction, an individualized education program, as~~
15 ~~defined in Section 56345.~~

16 *SEC. 117. Section 56345 of the Education Code is repealed.*

17 ~~56345. (a) The individualized education program is a written~~
18 ~~statement determined in a meeting of the individualized~~
19 ~~education program team and shall include, but not be limited to,~~
20 ~~all of the following:~~

21 ~~(1) The present levels of the pupil's educational performance,~~
22 ~~including the following:~~

23 ~~(A) For a schoolage child, how the pupil's disability affects~~
24 ~~the pupil's involvement and progress in the general curriculum.~~

25 ~~(B) For a preschoolage child, as appropriate, how the~~
26 ~~disability affects the child's participation in appropriate~~
27 ~~activities.~~

28 ~~(2) The measurable annual goals, including benchmarks or~~
29 ~~short-term objectives related to the following:~~

30 ~~(A) Meeting the pupil's needs that result from the pupil's~~
31 ~~disability to enable the pupil to be involved in and progress in the~~
32 ~~general curriculum.~~

33 ~~(B) Meeting each of the pupil's other educational needs that~~
34 ~~result from the pupil's disability.~~

35 ~~(3) The specific special educational instruction and related~~
36 ~~services and supplementary aids and services to be provided to~~
37 ~~the pupil, or on behalf of the pupil, and a statement of the~~
38 ~~program modifications or supports for school personnel that will~~
39 ~~be provided for the pupil in order to do the following:~~

1 ~~(A) To advance appropriately toward attaining the annual~~
2 ~~goals.~~

3 ~~(B) To be involved and progress in the general curriculum in~~
4 ~~accordance with subparagraph (A) of paragraph (1) and to~~
5 ~~participate in extracurricular and other nonacademic activities.~~

6 ~~(C) To be educated and participate with other pupils with~~
7 ~~disabilities and nondisabled pupils in the activities described in~~
8 ~~this section.~~

9 ~~(4) An explanation of the extent, if any, to which the pupil will~~
10 ~~not participate with nondisabled pupils in regular classes and in~~
11 ~~the activities described in paragraph (3).~~

12 ~~(5) The individual modifications in the administration of state~~
13 ~~or districtwide assessments of pupil achievement that are needed~~
14 ~~in order for the pupil to participate in the assessment. If the~~
15 ~~individualized education program team determines that the pupil~~
16 ~~will not participate in a particular state or districtwide assessment~~
17 ~~of pupil achievement (or part of an assessment), a statement of~~
18 ~~the following:~~

19 ~~(A) Why that assessment is not appropriate for the pupil.~~

20 ~~(B) How the pupil will be assessed.~~

21 ~~(6) The projected date for the beginning of the services and~~
22 ~~modifications described in paragraph (3), and the anticipated~~
23 ~~frequency, location, and duration of those services and~~
24 ~~modifications included in the individualized education program.~~

25 ~~(7) Appropriate objective criteria, evaluation procedures, and~~
26 ~~schedules for determining, on at least an annual basis, whether~~
27 ~~the annual goals are being achieved.~~

28 ~~(8) Beginning at least one year before the pupil reaches the~~
29 ~~age of 18, a statement shall be included in the individualized~~
30 ~~education program that the pupil has been informed of his or her~~
31 ~~rights under this part, if any, that will transfer to the pupil upon~~
32 ~~reaching the age of 18 pursuant to Section 56041.5.~~

33 ~~(9) A statement of how the pupil's progress toward the annual~~
34 ~~goals described in paragraph (2) will be measured.~~

35 ~~(10) A statement of how the pupil's parents or guardians will~~
36 ~~be regularly informed, at least as often as parents or guardians~~
37 ~~are informed of their nondisabled pupil's progress in the~~
38 ~~following:~~

39 ~~(A) The pupil's progress toward the annual goals described in~~
40 ~~paragraph (2).~~

1 ~~(B) The extent to which that progress is sufficient to enable~~
2 ~~the pupil to achieve the goals by the end of the year.~~

3 ~~(b) If appropriate, the individualized education program shall~~
4 ~~also include, but not be limited to, all of the following:~~

5 ~~(1) For pupils in grades 7 to 12, inclusive, any alternative~~
6 ~~means and modes necessary for the pupil to complete the~~
7 ~~district's prescribed course of study and to meet or exceed~~
8 ~~proficiency standards for graduation.~~

9 ~~(2) For individuals whose native language is other than~~
10 ~~English, linguistically appropriate goals, objectives, programs~~
11 ~~and services.~~

12 ~~(3) Extended school year services when needed, as determined~~
13 ~~by the individualized education program team.~~

14 ~~(4) Provision for the transition into the regular class program if~~
15 ~~the pupil is to be transferred from a special class or nonpublic,~~
16 ~~nonsectarian school into a regular class in a public school for any~~
17 ~~part of the schoolday, including the following:~~

18 ~~(A) A description of activities provided to integrate the pupil~~
19 ~~into the regular education program. The description shall indicate~~
20 ~~the nature of each activity, and the time spent on the activity each~~
21 ~~day or week.~~

22 ~~(B) A description of the activities provided to support the~~
23 ~~transition of pupils from the special education program into the~~
24 ~~regular education program.~~

25 ~~(5) For pupils with low-incidence disabilities, specialized~~
26 ~~services, materials, and equipment, consistent with guidelines~~
27 ~~established pursuant to Section 56136.~~

28 ~~(e) It is the intent of the Legislature in requiring individualized~~
29 ~~education programs, that the local educational agency is~~
30 ~~responsible for providing the services delineated in the~~
31 ~~individualized education program. However, the Legislature~~
32 ~~recognizes that some pupils may not meet or exceed the growth~~
33 ~~projected in the annual goals and objectives of the pupil's~~
34 ~~individualized education program. Pursuant to paragraph (2) of~~
35 ~~subsection (a) of Section 300.350 of Title 34 of the Code of~~
36 ~~Federal Regulations, public education agencies shall make a~~
37 ~~good faith effort to assist each individual with exceptional needs~~
38 ~~to achieve the goals and objectives or benchmarks listed in the~~
39 ~~individualized education program of the pupil.~~

~~(d) Consistent with Section 56000.5 and clause (iv) of subparagraph (B) of paragraph (3) of subsection (d) of Section 1414 of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of what constitutes an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the individualized education program team shall consider the related services and program options that provide the pupil with an equal opportunity for communication access. The individualized education program team shall specifically discuss the communication needs of the pupil, consistent with the guidelines adopted pursuant to Section 56136 and Page 49274 of Volume 57 of the Federal Register, including all of the following:~~

~~(1) The pupil's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both.~~

~~(2) The availability of a sufficient number of age, cognitive, and language peers of similar abilities which may be met by consolidating services into a local plan areawide program or providing placement pursuant to Section 56361.~~

~~(3) Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the pupil's primary language mode and language consistent with existing law regarding teacher training requirements.~~

~~(4) Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the Vocational Rehabilitation Act of 1973 as set forth in Section 794 of Title 29 of the United States Code and the Americans with Disabilities Act of 1990 as set forth in Section 12101, and following, of Title 42 of the United States Code.~~

~~(e) General Fund money made available to school districts or local agencies may not be used for any additional responsibilities and services associated with paragraphs (1) and (2) of subdivision (d), including the training of special education teachers and other specialists, even if those additional responsibilities or services are required pursuant to a judicial or state agency determination. Those responsibilities and services shall only be funded by a local educational agency as follows:~~

1 ~~(1) The costs of those activities shall be funded from existing~~
2 ~~programs and funding sources.~~

3 ~~(2) Those activities shall be supported by the resources~~
4 ~~otherwise made available to those programs.~~

5 ~~(3) Those activities shall be consistent with Sections 56240 to~~
6 ~~56243, inclusive.~~

7 ~~(f) It is the intent of the Legislature that the communication~~
8 ~~skills of teachers who work with hard-of-hearing and deaf~~
9 ~~children be improved. This section does not remove the local~~
10 ~~educational agency's discretionary authority in regard to~~
11 ~~in-service activities.~~

12 *SEC. 118. Section 56345 is added to the Education Code, to*
13 *read:*

14 *56345. (a) The term "individualized education program" or*
15 *"IEP" means a written statement for each pupil with a disability*
16 *that is developed, reviewed, and revised in accordance with this*
17 *section and that includes all of the following:*

18 *(1) A statement of the pupil's present levels of academic*
19 *achievement and functional performance, including all of the*
20 *following:*

21 *(A) The manner in which the pupil's disability affects the*
22 *pupil's involvement and progress in the general education*
23 *curriculum.*

24 *(B) For preschool children, as appropriate, the manner in*
25 *which the disability affects the pupil's participation in*
26 *appropriate activities.*

27 *(C) For pupils with disabilities who take alternate assessments*
28 *aligned to alternate achievement standards, a description of*
29 *benchmarks or short-term objectives.*

30 *(2) A statement of measurable annual goals, including*
31 *academic and functional goals, designed to do both of the*
32 *following:*

33 *(A) Meet the pupil's needs that result from the pupil's*
34 *disability to enable the pupil to be involved in and to make*
35 *progress in the general education curriculum.*

36 *(B) Meet each of the pupil's other educational needs that*
37 *result from the pupil's disability.*

38 *(3) A description of how the pupil's progress toward meeting*
39 *the annual goals described in paragraph (2) will be measured*
40 *and when periodic reports on the progress the pupil is making*

1 toward meeting the annual goals, such as through the use of
2 quarterly or other periodic reports, concurrent with the issuance
3 of report cards, will be provided.

4 (4) A statement of the special education and related services
5 and supplementary aids and services, based on peer-reviewed
6 research to the extent practicable, to be provided to the pupil, or
7 on behalf of the pupil, and a statement of the program
8 modifications or supports for school personnel that will be
9 provided for the pupil in order for the pupil to do all the
10 following:

11 (A) To advance appropriately toward attaining the annual
12 goals.

13 (B) To be involved in and to make progress in the general
14 education curriculum in accordance with paragraph (1) and to
15 participate in extracurricular and other nonacademic activities.

16 (C) To be educated and participate with other pupils with
17 disabilities and nondisabled pupils in the activities described in
18 this paragraph.

19 (5) An explanation of the extent, if any, to which the pupil will
20 not participate with nondisabled pupils in the regular class and
21 in the activities described in paragraph (4).

22 (6) A statement of any individual appropriate accommodations
23 that are necessary to measure the academic achievement and
24 functional performance of the child on state and districtwide
25 assessments consistent with subparagraph (A) of paragraph (16)
26 of subsection (a) of Section 1412 of Title 20 of the United States
27 Code.

28 (7) If the IEP team determines that the pupil shall take an
29 alternate assessment on a particular state or districtwide
30 assessment of pupil achievement, a statement of both of the
31 following:

32 (A) The reasons why the pupil cannot participate in the
33 regular assessment.

34 (B) The reasons why the particular alternate assessment
35 selected is appropriate for the pupil.

36 (8) The projected date for the beginning of the services and
37 modifications described in paragraph (4), and the anticipated
38 frequency, location, and duration of those services and
39 modifications.

1 (9) *Beginning not later than the first IEP to be in effect when*
2 *the pupil is 16 years of age, and updated annually thereafter, to*
3 *include both of the following:*

4 (A) *Appropriate measurable postsecondary goals based upon*
5 *age-appropriate transition assessments related to training,*
6 *education, employment, and, where appropriate, independent*
7 *living skills.*

8 (B) *The transition services, including courses of study, needed*
9 *to assist the pupil in reaching those goals.*

10 (C) *Beginning not later than one year before the pupil reaches*
11 *the age of majority under state law, a statement that the pupil has*
12 *been informed of the pupil's rights under this part, if any, that*
13 *will transfer to the pupil on reaching the age of majority under*
14 *subsection (m) of Section 1415 of Title 20 of the United States*
15 *Code.*

16 (b) *This section does not require either of the following:*

17 (1) *That additional information be included in a pupil's IEP*
18 *beyond what is explicitly required in this section.*

19 (2) *The IEP team to include information under one component*
20 *of a pupil's IEP that is already contained under another*
21 *component of the IEP.*

22 (c) *Consistent with Section 56000.5 and clause (iv) of*
23 *subparagraph (B) of paragraph (3) of subsection (d) of Section*
24 *1414 of Title 20 of the United States Code, it is the intent of the*
25 *Legislature that, in making a determination of what constitutes*
26 *an appropriate education to meet the unique needs of a*
27 *hearing-impaired pupil in the least restrictive environment, the*
28 *individualized education program team shall consider the related*
29 *services and program options that provide the pupil with an*
30 *equal opportunity for communication access. The individualized*
31 *education program team shall specifically discuss the*
32 *communication needs of the pupil, consistent with the guidelines*
33 *adopted pursuant to Section 56136 and page 49274 of volume 57*
34 *of the Federal Register, including all of the following:*

35 (1) *The pupil's primary language mode and language, which*
36 *may include the use of spoken language with or without visual*
37 *cues, or the use of sign language, or a combination of both.*

38 (2) *The availability of a sufficient number of age, cognitive,*
39 *and language peers of similar abilities that may be met by*

1 *consolidating services into a local plan areawide program or*
2 *providing placement pursuant to Section 56361.*

3 *(3) Appropriate, direct, and ongoing language access to*
4 *special education teachers and other specialists who are*
5 *proficient in the pupil's primary language mode and language*
6 *consistent with existing law regarding teacher training*
7 *requirements.*

8 *(4) Services necessary to ensure communication-accessible*
9 *academic instructions, school services, and extracurricular*
10 *activities consistent with the Vocational Rehabilitation Act of*
11 *1973 as set forth in Section 794 of Title 29 of the United States*
12 *Code and the Americans with Disabilities Act of 1990 as set forth*
13 *in Section 12101, and following, of Title 42 of the United States*
14 *Code.*

15 *(e) General Fund money made available to school districts or*
16 *local agencies may not be used for any additional responsibilities*
17 *or services associated with paragraphs (1) and (2) of subdivision*
18 *(d), including the training of special education teachers and*
19 *other specialists, even if those additional responsibilities or*
20 *services are required pursuant to a judicial or state agency*
21 *determination. Those responsibilities and services shall only be*
22 *funded by a local educational agency as follows:*

23 *(1) The costs of those activities shall be funded from existing*
24 *programs and funding sources.*

25 *(2) Those activities shall be supported by the resources*
26 *otherwise made available to those programs.*

27 *(3) Those activities shall be consistent with Sections 56240 to*
28 *56243, inclusive.*

29 *(f) It is the intent of the Legislature that the communication*
30 *skills of teachers who work with hearing-impaired pupils be*
31 *improved. This section does not remove the local educational*
32 *agency's discretionary authority in regard to in-service*
33 *activities.*

34 *SEC. 119. Section 56345.1 of the Education Code is amended*
35 *to read:*

36 *56345.1. (a) Beginning at age—~~14~~ 16, or younger, if*
37 *determined by the individualized education program team*
38 *pursuant to paragraph (1) of subsection (b) of Section 300.347 of*
39 *Title 34 of the Code of Federal Regulations, a statement of the*
40 *transition service needs of the pupil shall be included in the*

pupil's individualized education program and shall be updated annually. The statement shall be included under applicable components of the pupil's individualized education program that focuses on the pupil's courses of study, such as participation in advanced-placement courses or a vocational education program.

(b) Beginning at age 16 or younger and annually thereafter, in accordance with Section 56462 and paragraph (30) of Section 1401 of Title 20 of the United States Code, a statement of needed transition services shall be included in the pupil's individualized education program, including whenever appropriate, a statement of interagency responsibilities or any needed linkages.

(c) The term "transition services" means a coordinated set of activities for ~~an individual with exceptional needs~~ *a pupil with a disability* that does the following:

(1) Is designed within an outcome-oriented process, that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

(2) Is based upon the individual pupil's needs, taking into account the pupil's preferences and interests.

(3) Includes instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(d) If a participating agency, other than the local educational agency, fails to provide the transition services described in the pupil's individualized education program in accordance with this section, the local educational agency shall reconvene the individualized education program team to identify alternative strategies to meet the transition service needs for the pupil set out in the program.

SEC. 120. Section 56346 of the Education Code is repealed.

~~56346. (a) Informed parental consent shall be obtained before the initial provision of special education and related services to an individual with exceptional needs pursuant to clause (ii) of paragraph (1) of subsection (a) of Section 300.505 of Title 34 of the Code of Federal Regulations.~~

~~(b) A pupil may not be required to participate in all or part of any special education program, unless the parent is first informed, in writing, of the facts that make participation in the program necessary or desirable, and of the contents of the individualized education program, and after this notice, consents, in writing, to all or part of the individualized education program. If the parent does not consent to all of the components of the individualized education program, those components of the program to which the parent has consented shall be implemented so as not to delay providing instruction and services to the pupil.~~

~~(c) If the local educational agency determines that the part of the proposed special education program to which the parent does not consent is necessary to provide a free and appropriate public education to the pupil, a due process hearing shall be initiated pursuant to Chapter 5 (commencing with Section 56500), unless a prehearing mediation conference is held. During the pendency of the due process hearing, the local educational agency may reconsider the proposed individualized education program, may choose to meet informally with the parent pursuant to subdivision (b) of Section 56502, or may hold a mediation conference pursuant to Section 56503. As an alternative to holding a due process hearing, the parties may hold a prehearing mediation conference pursuant to Section 56500.3 to resolve any issue or dispute. If a due process hearing is held, the hearing decision shall be the final administrative determination and shall be binding upon the parties. While a prehearing mediation conference or due process hearing is pending, the pupil shall remain in his or her current placement, unless the parent and the local educational agency agree otherwise.~~

SEC. 121. Section 56352 of the Education Code is amended to read:

56352. (a) A functional vision—~~assessment~~ *evaluation* conducted pursuant to Section 56320 shall be used as one criterion in determining the appropriate reading medium or media for the pupil.

(b) ~~An assessment~~ *evaluation* of braille skills shall be required for functionally blind pupils who have the ability to read in accordance with guidelines established pursuant to Section 56136. A school district, special education local plan area, or county office of education may provide pupils with ~~low vision a~~

1 *visual impairment* with the opportunity to receive ~~assessments~~
2 *evaluation* to determine the appropriate reading medium or
3 media, including braille instruction, for the pupils.

4 (c) The determination, by a pupil's individualized education
5 program team, of the most appropriate medium or media,
6 including braille, for functionally blind pupils who have the
7 ability to read shall use as one criterion the ~~assessment~~
8 *evaluation* provided for pursuant to subdivision (b) and shall be
9 in accordance with guidelines established pursuant to Section
10 56136.

11 (d) Except as provided in subdivision (b) of Section 56351.5,
12 braille instruction shall be provided by a teacher who holds an
13 appropriate credential, as determined by the Commission on
14 Teacher Credentialing, to teach pupils who are functionally blind
15 or visually impaired.

16 (e) Each visually impaired pupil shall be provided with the
17 opportunity to receive an assessment to determine the appropriate
18 reading medium or media, including braille instruction, if
19 appropriate, for that pupil.

20 *SEC. 122. Section 56360 of the Education Code is amended*
21 *to read:*

22 56360. Each special education local plan area shall ensure
23 that a continuum of program options is available to meet the
24 needs of ~~individuals with exceptional needs~~ *pupils with*
25 *disabilities* for special education and related services, as required
26 by the *federal* Individuals with Disabilities Education Act (20
27 U.S.C. Sec. 1400 et seq.) and federal regulations relating thereto.

28 *SEC. 123. Section 56361 of the Education Code is amended*
29 *to read:*

30 56361. The continuum of program options shall include, but
31 not necessarily be limited to, all of the following or any
32 combination of the following:

33 (a) Regular education programs consistent with subparagraph
34 (A) of paragraph (5) of subsection (a) of Section 1412 of Title 20
35 of the United States Code and implementing regulations.

36 (b) A resource specialist program pursuant to Section 56362.

37 (c) ~~Designated instruction and services~~ *Related services*
38 pursuant to Section 56363.

39 (d) Special classes pursuant to Section 56364.2.

1 (e) Nonpublic, nonsectarian school services pursuant to
2 Section 56365.

3 (f) State special schools pursuant to Section 56367.

4 (g) Instruction in settings other than classrooms where
5 specially designed instruction may occur.

6 (h) Itinerant instruction in classrooms, resource rooms, and
7 settings other than classrooms where specially designed
8 instruction may occur to the extent required by federal law or
9 regulation.

10 (i) Instruction using telecommunication, and instruction in the
11 home, in hospitals, and in other institutions to the extent required
12 by federal law or regulation.

13 *SEC. 124. Section 56362 of the Education Code is amended*
14 *to read:*

15 56362. (a) The resource specialist program shall provide, but
16 not be limited to, all of the following:

17 (1) Provision for a resource specialist or specialists who shall
18 provide instruction and services for those pupils whose needs
19 have been identified in an individualized education program
20 developed by the individualized education program team and
21 who are assigned to regular classroom teachers for a majority of
22 a schoolday.

23 (2) Provision of information and assistance to ~~individuals with~~
24 ~~exceptional needs~~ *pupils with disabilities* and their parents.

25 (3) Provision of consultation, resource information, and
26 material regarding ~~individuals with exceptional needs~~ *pupils with*
27 *disabilities* to their parents and to regular staff members.

28 (4) Coordination of special education services with the regular
29 school programs for each ~~individual with exceptional needs~~ *pupil*
30 *with a disability* enrolled in the resource specialist program.

31 (5) Monitoring of pupil progress on a regular basis,
32 participation in the review and revision of individualized
33 education programs, as appropriate, and referral of pupils who do
34 not demonstrate appropriate progress to the individualized
35 education program team.

36 (6) Emphasis at the secondary school level on academic
37 achievement, career and vocational development, and preparation
38 for adult life.

39 (b) The resource specialist program shall be under the
40 direction of a resource specialist who is a credentialed special

1 education teacher, or who has a clinical services credential with a
2 special class authorization, who has had three or more years of
3 teaching experience, including both regular and special education
4 teaching experience, as defined by rules and regulations of the
5 Commission on Teacher Credentialing and who has
6 demonstrated the competencies for a resource specialist, as
7 established by the Commission on Teacher Credentialing.

8 (c) Caseloads for resource specialists shall be stated in the
9 local policies developed pursuant to Section 56195.8 and in
10 accordance with regulations established by the board. No
11 resource specialist shall have a caseload which exceeds 28
12 pupils.

13 (d) Resource specialists shall not simultaneously be assigned
14 to serve as resource specialists and to teach regular classes.

15 (e) Resource specialists shall not enroll a pupil for a majority
16 of a schoolday without prior approval by the superintendent.

17 (f) At least 80 percent of the resource specialists within a local
18 plan shall be provided with an instructional aide.

19 *SEC. 125. Section 56362.5 of the Education Code is amended*
20 *to read:*

21 56362.5. ~~By July 1982, the~~ *The* Commission on Teacher
22 Credentialing shall adopt rules and regulations for a resource
23 specialist certificate of competence. The certificate shall provide
24 all the following:

25 (a) Definition of the competencies required of a resource
26 specialist.

27 (b) Provision for a system of direct application to the
28 commission for a certificate of competence for each teacher who
29 holds a valid special education credential, other than an
30 emergency credential, and who satisfies any one of the following
31 criteria:

32 (1) Provided instruction and services as specified in
33 subdivision (a) of Section 80070.1 of Title 5 of the California
34 Administrative Code as it read immediately prior to July 28,
35 1980, for two years prior to September 1, 1981.

36 (2) Provided instruction and services as specified in
37 subdivision (b) of Section 80070.2 of Title 5 of the California
38 Administrative Code as it read immediately prior to July 28,
39 1980, for two years prior to June 30, 1983.

(c) Provision for the issuance, for up to three years, of a preliminary nonrenewable certificate of competence for the resource specialist, and adoption of the standards for the issuance and continuing validity of such a certificate.

(d) Establishment of a system for verification of competencies through both of the following:

(1) Commission on Teacher Credentialing approved institution of higher education resource specialist certificate program.

(2) Commission on Teacher Credentialing approved competency-assessment *evaluation* panels for resource specialist certification.

(e) Cooperation with the department in implementing these provisions.

Notwithstanding any other provision of law, any person who held a preliminary resource specialist certificate of competence on January 28, 1982, and who met the requirements for a clear resource specialist certificate of competence as specified in paragraph (1) of subdivision (b) may be issued a clear resource specialist certificate of competence upon submission of a completed application, but without any additional fee.

SEC. 126. Section 56362.7 of the Education Code is amended to read:

56362.7. (a) The Legislature recognizes the need for specially trained professionals to assess and serve pupils of limited-English proficiency. This is particularly true of pupils with ~~exceptional-needs~~ *disabilities* or pupils with suspected ~~handicaps~~ *disabilities*.

(b) The commission shall develop a bilingual-crosscultural certificate of ~~assessment~~ *evaluation* competence for those professionals who may participate in ~~assessments~~ *evaluations* for placements in special education programs. The certificate shall be issued to holders of appropriate credentials, certificates, or authorizations who demonstrate, by written and oral examination, all of the following:

(1) That the person is competent in both the oral and written skills of a language other than English.

(2) That the person has both the knowledge and understanding of the cultural and historical heritage of the limited-English-proficient individuals to be served.

1 (3) That the person has the ability to perform the ~~assessment~~
2 *evaluation* functions the candidate is certified or authorized to
3 perform in English and in a language other than English.

4 (4) That the person has knowledge of the use of instruments
5 and other ~~assessment~~ *evaluation* techniques appropriate to
6 evaluate limited-English-proficient ~~individuals with exceptional~~
7 ~~needs~~ *pupils with disabilities* and ability to develop appropriate
8 data, instructional strategies, individual educational plans, and
9 evaluations.

10 (c) Certificates of bilingual-crosscultural competence for
11 special education professionals who implement individual
12 education plans requiring bilingual services shall be granted by
13 the commission pursuant to Section 44253.7.

14 (d) It is not the intent of the Legislature in enacting this section
15 that possession of any certificate established by this section be a
16 state-mandated requirement for employment or continued
17 employment. It is the intent that this is a matter for local
18 educational agencies to determine.

19 *SEC. 127. Section 56363 of the Education Code is repealed.*

20 ~~56363. (a) Designated instruction and services as specified in~~
21 ~~the individualized education program shall be available when the~~
22 ~~instruction and services are necessary for the pupil to benefit~~
23 ~~educationally from his or her instructional program. The~~
24 ~~instruction and services shall be provided by the regular class~~
25 ~~teacher, the special class teacher, or the resource specialist if the~~
26 ~~teacher or specialist is competent to provide the instruction and~~
27 ~~services and if the provision of the instruction and services by the~~
28 ~~teacher or specialist is feasible. If not, the appropriate designated~~
29 ~~instruction and services specialist shall provide the instruction~~
30 ~~and services. Designated instruction and services shall meet~~
31 ~~standards adopted by the board.~~

32 ~~(b) These services may include, but are not limited to, the~~
33 ~~following:~~

34 ~~(1) Language and speech development and remediation. The~~
35 ~~language and speech development and remediation services may~~
36 ~~be provided by a speech-language pathology assistant as defined~~
37 ~~in subdivision (f) of Section 2530.2 of the Business and~~
38 ~~Professions Code.~~

39 ~~(2) Audiological services.~~

40 ~~(3) Orientation and mobility instruction.~~

1 ~~(4) Instruction in the home or hospital.~~
2 ~~(5) Adapted physical education.~~
3 ~~(6) Physical and occupational therapy.~~
4 ~~(7) Vision services.~~
5 ~~(8) Specialized driver training instruction.~~
6 ~~(9) Counseling and guidance.~~
7 ~~(10) Psychological services other than assessment and~~
8 ~~development of the individualized education program.~~
9 ~~(11) Parent counseling and training.~~
10 ~~(12) Health and nursing services.~~
11 ~~(13) Social worker services.~~
12 ~~(14) Specially designed vocational education and career~~
13 ~~development.~~
14 ~~(15) Recreation services.~~
15 ~~(16) Specialized services for low-incidence disabilities, such~~
16 ~~as readers, transcribers, and vision and hearing services.~~

17 SEC. 128. Section 56363 is added to the Education Code, to
18 read:

19 56363. (a) The term “related services” means
20 transportation, and such developmental, corrective, and other
21 supportive services, including speech-language pathology and
22 audiology services, interpreting services, psychological services,
23 physical and occupational therapy, recreation, including
24 therapeutic recreation, social work services, school nurse
25 services designed to enable a pupil with a disability to receive a
26 free appropriate public education as described in the
27 individualized education program of the child, counseling
28 services, including rehabilitation counseling, orientation and
29 mobility services, and medical services, except that such medical
30 services shall be for diagnostic and evaluation purposes only, as
31 may be required to assist a pupil with a disability to benefit from
32 special education, and includes the early identification and
33 assessment of disabling conditions in children.

34 (b) The term “related services” does not include a medical
35 device that is surgically implanted, or the replacement of that
36 device.

37 SEC. 129. Section 56365 of the Education Code is amended
38 to read:

39 56365. (a) Services provided by nonpublic, nonsectarian
40 schools, as defined pursuant to Section 56034, and nonpublic,

1 nonsectarian agencies, as defined pursuant to Section 56035,
2 shall be available. These services shall be provided pursuant to
3 Section 56366, and in accordance with Section 300.401 of Title
4 34 of the Code of Federal Regulations, under contract with the
5 district, special education local plan area, or county office to
6 provide the appropriate special educational facilities, special
7 education, or designated instruction and services required by the
8 ~~individual with exceptional needs~~ *pupil with a disability* if no
9 appropriate public education program is available.

10 (b) Pupils enrolled in nonpublic, nonsectarian schools and
11 agencies under this section shall be deemed to be enrolled in
12 public schools for all purposes of Chapter 4 (commencing with
13 Section 41600) of Part 24 and Section 42238. The district,
14 special education local plan area, or county office shall be
15 eligible to receive allowances under Chapter 7.2 (commencing
16 with Section 56836) for services that are provided to ~~individuals~~
17 ~~with exceptional needs~~ *pupils with disabilities* pursuant to the
18 contract.

19 (c) If the state participates in the federal program of assistance
20 for state-operated or state-supported programs for ~~individuals~~
21 ~~with exceptional needs~~ *pupils with disabilities* (P.L. 89-313, Sec.
22 6), pupils enrolled in nonpublic, nonsectarian schools shall be
23 deemed to be enrolled in state-supported institutions for all
24 purposes of that program and shall be eligible to receive
25 allowances under Chapter 7.2 (commencing with Section 56836)
26 for supplemental services provided to ~~individuals with~~
27 ~~exceptional needs~~ *pupils with disabilities* pursuant to a contract
28 with a district, special education local plan area, or county office
29 of education. In order to participate in the federal program, the
30 state shall find that participation will not result in any additional
31 expenditures from the General Fund.

32 (d) The district, special education local plan area, or county
33 office shall pay to the nonpublic, nonsectarian school or agency
34 the full amount of the tuition for ~~individuals with exceptional~~
35 ~~needs~~ *pupils with disabilities* that are enrolled in programs
36 provided by the nonpublic, nonsectarian school pursuant to the
37 contract.

38 (e) Before contracting with a nonpublic, nonsectarian school
39 or agency outside of this state, the district, special education local
40 plan area, or county office shall document its efforts to utilize

1 public schools or to locate an appropriate nonpublic, nonsectarian
2 school or agency program, or both, within the state.

3 (f) If a district, special education local plan area, or county
4 office places a pupil with a nonpublic, nonsectarian school or
5 agency outside of this state, the pupil's individualized education
6 program team shall submit a report to the ~~superintendent~~
7 *Superintendent* within 15 days of the placement decision. The
8 report shall include information about the special education and
9 related services provided by the out-of-state program placement
10 and the costs of the special education and related services
11 provided, and shall indicate the efforts of the local educational
12 agency to locate an appropriate public school or nonpublic,
13 nonsectarian school or agency, or a combination thereof, within
14 the state. The ~~superintendent~~ *Superintendent* shall submit a report
15 to the State Board of Education on all placements made outside
16 of this state.

17 (g) If a school district, special education local plan area, or
18 county office of education decides to place a pupil with a
19 nonpublic, nonsectarian school or agency outside of this state,
20 that local educational agency shall indicate the anticipated date
21 for the return of the pupil to a public or nonpublic, nonsectarian
22 school or agency placement, or a combination thereof, located in
23 the state and shall document efforts during the previous
24 placement year to return the pupil.

25 (h) In addition to meeting the requirements of Section
26 56366.1, a nonpublic, nonsectarian school or agency that
27 operates a program outside of this state shall be certified or
28 licensed by that state to provide, respectively, special education
29 and related services and designated instruction and related
30 services to pupils under the *federal* Individuals with Disabilities
31 Education Act (20 U.S.C. Sec. 1400 et seq.).

32 (i) A nonpublic, nonsectarian school or agency that is located
33 outside of this state is eligible for certification pursuant to
34 Section 56366.1 only if a pupil is enrolled in a program operated
35 by that school or agency pursuant to the recommendation of an
36 individualized education program team in California, and if that
37 pupil's parents or guardians reside in California.

38 (j) In accordance with subsections (b) and (c) of Section
39 300.402 of Title 34 of the Code of Federal Regulations, the
40 department shall disseminate copies of applicable standards to

each nonpublic, nonsectarian school and nonpublic, nonsectarian agency to which a district, special education local plan area, or county office has referred or placed ~~an individual with exceptional needs~~ *a pupil with a disability* and shall provide an opportunity for those nonpublic, nonsectarian schools and nonpublic, nonsectarian agencies to participate in the development and revision of state standards that apply to those entities.

SEC. 130. Section 56366 of the Education Code is amended to read:

56366. It is the intent of the Legislature that the role of a nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to a local educational agency and parents.

(a) The master contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The master contract shall specify the general administrative and financial, including teacher-to-pupil ratios, between the nonpublic, nonsectarian school or agency and the local educational agency to provide the special education and designated instruction and services, as well as transportation specified in the pupil's individualized education program. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting local educational agency to ensure that appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) (A) The master contract shall include an individual services agreement for each pupil placed by a local educational agency that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

(B) The master contract shall include a description of the process being utilized by the local educational agency to oversee and evaluate placements in nonpublic, nonsectarian schools, as required by federal law. This description shall include a method

1 for evaluating whether the pupil is making appropriate
2 educational progress. At least once every year, the local
3 educational agency shall do all of the following and, to the extent
4 possible, the following shall be conducted as part of the
5 development and provision of an individualized education
6 program:

7 (i) Evaluate the educational progress of each pupil placed in a
8 nonpublic, nonsectarian school, including all state assessment
9 results pursuant to the requirements of Section 52052.

10 (ii) Consider whether or not the needs of the pupil continue to
11 be best met at the nonpublic, nonsectarian school and whether
12 changes to the individualized education program of the pupil are
13 necessary, including whether the pupil may be transitioned to a
14 public school setting. This consideration shall be made at the
15 meeting required by subdivision (d) of Section 56343.

16 (C) In the case of a nonpublic, nonsectarian school that is
17 owned, operated by, or associated with a licensed children's
18 institution, the master contract shall include a method for
19 evaluating whether the nonpublic, nonsectarian school is in
20 compliance with the mandate set forth in Section 56366.9 of the
21 Education Code and subdivision (b) of Section 1501.1 of the
22 Health and Safety Code.

23 (3) Changes in educational instruction, services, or placement
24 provided under contract may only be made on the basis of
25 revisions to the pupil's individualized education program.

26 At any time during the term of the contract or individual
27 services agreement, the parent, the nonpublic, nonsectarian
28 school or agency, or the local educational agency may request a
29 review of the pupil's individualized education program by the
30 individualized education program team. Changes in the
31 administrative or financial agreements of the master contract that
32 do not alter the individual services agreement that outlines each
33 pupil's educational instruction, services, or placement may be
34 made at any time during the term of the contract as mutually
35 agreed by the nonpublic, nonsectarian school or agency and the
36 local educational agency.

37 (4) The master contract or individual services agreement may
38 be terminated for cause. The cause shall not be the availability of
39 a public class initiated during the period of the contract unless the
40 parent agrees to the transfer of the pupil to a public school

1 program. To terminate the contract either party shall give 20
2 days' notice.

3 (5) The nonpublic, nonsectarian school or agency shall
4 provide all services specified in the individualized education
5 program, unless the nonpublic, nonsectarian school or agency
6 and the local educational agency agree otherwise in the contract
7 or individual services agreement.

8 (6) Related services provided pursuant to a nonpublic,
9 nonsectarian agency master contract shall only be provided
10 during the period of the child's regular or extended school year
11 program, or both, unless otherwise specified by the pupil's
12 individualized education program.

13 (7) The nonpublic, nonsectarian school or agency shall report
14 attendance of pupils receiving special education and designated
15 instruction and services as defined by Section 46307 for purposes
16 of submitting a warrant for tuition to each contracting local
17 educational agency.

18 (8) (A) A nonpublic, nonsectarian school, is subject to the
19 alternative accountability system developed pursuant to Section
20 52052, in the same manner as public schools and each pupil
21 placed in the nonpublic, nonsectarian school by a local
22 educational agency shall be tested by qualified staff of the
23 nonpublic, nonsectarian school in accordance with that
24 accountability program. The test results shall be reported by the
25 nonpublic, nonsectarian school to the department.

26 (B) Beginning with the 2006–07 school year testing cycle,
27 each nonpublic, nonsectarian school shall determine its STAR
28 testing period subject to subdivisions (b) and (c) of Section
29 60640. The nonpublic, nonsectarian school shall determine this
30 period based on completion of 85 percent of the instructional
31 year at that nonpublic, nonsectarian school, plus and minus 10
32 days, resulting in a 21-day period. Each nonpublic, nonsectarian
33 school shall notify the district of residence of a pupil enrolled in
34 the school of its testing period. Staff at the nonpublic,
35 nonsectarian school who shall administer the ~~assessments~~
36 *evaluations* shall attend the regular testing training sessions
37 provided by the district of residence. If staff from a nonpublic,
38 nonsectarian school have received training from one local
39 educational agency, that training will be sufficient for all local
40 educational agencies that send pupils to the nonpublic,

1 nonsectarian school. The district of residence shall order testing
2 materials for its pupils that have been placed in the nonpublic,
3 nonsectarian school. The state board shall adopt regulations to
4 facilitate the distribution of and collection of testing materials.

5 (9) With respect to a nonpublic, nonsectarian school, the
6 school shall prepare a school accountability report card in
7 accordance with Section 33126.

8 (b) The master contract or individual services agreement shall
9 not include special education transportation provided through the
10 use of services or equipment owned, leased, or contracted by a
11 local educational agency for pupils enrolled in the nonpublic,
12 nonsectarian school or agency unless provided directly or
13 subcontracted by that nonpublic, nonsectarian school or agency.

14 The ~~superintendent~~ *Superintendent* shall withhold 20 percent of
15 the amount apportioned to a local educational agency for costs
16 related to the provision of nonpublic, nonsectarian school or
17 agency placements if the ~~superintendent~~ *Superintendent* finds
18 that the local educational agency is in noncompliance with this
19 subdivision. This amount shall be withheld from the
20 apportionments in the fiscal year following the ~~superintendent's~~
21 *Superintendent's* finding of noncompliance. The ~~superintendent~~
22 *superintendent* shall take other appropriate actions to prevent
23 noncompliant practices from occurring and report to the
24 Legislature on those actions.

25 (c) (1) If the pupil is enrolled in the nonpublic, nonsectarian
26 school or agency with the approval of the local educational
27 agency prior to agreement to a contract or individual services
28 agreement, the local educational agency shall issue a warrant,
29 upon submission of an attendance report and claim, for an
30 amount equal to the number of creditable days of attendance at
31 the per diem tuition rate agreed upon prior to the enrollment of
32 the pupil. This provision shall be allowed for 90 days during
33 which time the contract shall be consummated.

34 (2) If after 60 days the master contract or individual services
35 agreement has not been finalized as prescribed in paragraph (1)
36 of subdivision (a), either party may appeal to the county
37 superintendent of schools, if the county superintendent is not
38 participating in the local plan involved in the nonpublic,
39 nonsectarian school or agency contract, or the ~~superintendent~~
40 *Superintendent*, if the county superintendent is participating in

1 the local plan involved in the contract, to negotiate the contract.
2 Within 30 days of receipt of this appeal, the county
3 superintendent or the ~~superintendent~~ *Superintendent*, or his or her
4 designee, shall mediate the formulation of a contract which shall
5 be binding upon both parties.

6 (d) A master contract for special education and related
7 services provided by a nonpublic, nonsectarian school or agency
8 may not be authorized under this part, unless the school or
9 agency has been certified as meeting those standards relating to
10 the required special education and specified related services and
11 facilities for ~~individuals with exceptional needs~~ *pupils with*
12 *disabilities*. The certification shall result in the school or agency
13 receiving approval to educate pupils under this part for a period
14 no longer than 18 months from the date of the initial approval.

15 (e) By September 30, 1998, the procedures, methods, and
16 regulations for the purposes of contracting for nonpublic,
17 nonsectarian school and agency services pursuant to this section
18 and for reimbursement pursuant to Sections 56836.16 and
19 56836.20 shall be developed by the ~~superintendent~~
20 *Superintendent* in consultation with statewide organizations
21 representing providers of special education and ~~designated~~
22 ~~instruction and services~~ *related services*. The regulations shall be
23 established by rules and regulations issued by the board.

24 *SEC. 131. Section 56366.1 of the Education Code is amended*
25 *to read:*

26 56366.1. (a) A nonpublic, nonsectarian school or agency that
27 seeks certification shall file an application with the
28 ~~superintendent~~ *Superintendent* on forms provided by the
29 department and include the following information on the
30 application:

31 (1) A description of the special education and designated
32 instruction and services provided to ~~individuals with exceptional~~
33 ~~needs~~ *pupils with disabilities* if the application is for nonpublic,
34 nonsectarian school certification.

35 (2) A description of the ~~designated instruction and services~~
36 ~~related services~~ provided to ~~individuals with exceptional needs~~
37 *pupils with disabilities* if the application is for nonpublic,
38 nonsectarian agency certification.

39 (3) A list of appropriately qualified staff, a description of the
40 credential, license, or registration that qualifies each staff

1 member ~~rendering to render~~ special education or ~~designated~~
2 ~~instruction and services to do so~~ *related services*, and copies of
3 their credentials, licenses, or certificates of registration with the
4 appropriate state or national organization that has established
5 standards for the service rendered.

6 (4) An annual operating budget.

7 (5) Affidavits and assurances necessary to comply with all
8 applicable federal, state, and local laws and regulations which
9 include criminal record summaries required of all nonpublic
10 school or agency personnel having contact with minor children
11 under Section 44237.

12 (b) (1) The applicant shall provide the special education local
13 plan area in which the applicant is located with the written
14 notification of its intent to seek certification or renewal of its
15 certification. The applicant shall submit on a form, developed by
16 the department, a signed verification by local educational agency
17 representatives that they have been notified of the intent to
18 certify or renew certification. The verification shall include a
19 statement that local educational agency representatives in which
20 the applicant is located have had the opportunity to review the
21 application at least 60 calendar days prior to submission of an
22 initial application to the ~~superintendent~~ *Superintendent*, or at
23 least 30 calendar days prior to submission of a renewal
24 application to the ~~superintendent~~ *Superintendent*. The signed
25 verification shall provide assurances that local educational
26 agency representatives have had the opportunity to provide input
27 on all required components of the application.

28 (2) If the applicant has not received a response from the local
29 educational agency 30 days from the date of the return receipt,
30 the applicant may file the application with the ~~superintendent~~
31 *Superintendent*. A copy of the return receipt shall be included
32 with the application as verification of notification efforts to the
33 local educational agency.

34 (3) The department shall mail renewal application materials to
35 certified nonpublic, nonsectarian schools and agencies at least
36 120 days prior to the date their current certification expires.

37 (c) If the applicant operates a facility or program on more than
38 one site, each site shall be certified.

39 (d) If the applicant is part of a larger program or facility on the
40 same site, the ~~superintendent~~ *Superintendent* shall consider the

1 effect of the total program on the applicant. A copy of the
2 policies and standards for the nonpublic, nonsectarian school or
3 agency and the larger program shall be available to the
4 ~~superintendent~~ *Superintendent*.

5 (e) Prior to certification, the ~~superintendent~~ *Superintendent*
6 shall conduct an onsite review of the facility and program for
7 which the applicant seeks certification. The ~~superintendent~~
8 *Superintendent* may be assisted by representatives of the special
9 education local plan area in which the applicant is located and a
10 nonpublic, nonsectarian school or agency representative who
11 does not have a conflict of interest with the applicant. The
12 ~~superintendent~~ *Superintendent* shall conduct an additional onsite
13 review of the facility and program within four years of the
14 certification effective date, unless the ~~superintendent~~
15 *Superintendent* conditionally certifies the school or agency or
16 unless the ~~superintendent~~ *Superintendent* receives a formal
17 complaint against the school or agency. In the latter two cases,
18 the ~~superintendent~~ *Superintendent* shall conduct an onsite review
19 at least annually.

20 (f) The ~~superintendent~~ *Superintendent* shall make a
21 determination on an application within 120 days of receipt of the
22 application and shall certify, conditionally certify, or deny
23 certification to the applicant. If the ~~superintendent~~
24 *Superintendent* fails to take one of these actions within 120 days,
25 the applicant is automatically granted conditional certification for
26 a period terminating on August 31, of the current school year. If
27 certification is denied, the ~~superintendent~~ *Superintendent* shall
28 provide reasons for the denial. The ~~superintendent~~
29 *Superintendent* may certify the school or agency for a period of
30 not longer than ~~one year~~ *four years*.

31 (g) Certification becomes effective on the date the nonpublic,
32 nonsectarian school or agency meets all the application
33 requirements and is approved by the ~~superintendent~~
34 *Superintendent*. Certification may be retroactive if the school or
35 agency met all the requirements of this section on the date the
36 retroactive certification is effective. Certification expires on
37 December 31 of the terminating year.

38 (h) The ~~superintendent~~ *Superintendent* shall annually review
39 the certification of each nonpublic, nonsectarian school and
40 agency. For this purpose, a certified school or agency shall

1 annually update its application between August 1 and October
2 31, unless the board grants a waiver pursuant to Section 56101.
3 The ~~superintendent~~ *Superintendent* may conduct an onsite review
4 as part of the annual review.

5 (i) (1) The ~~superintendent~~ *Superintendent* shall document the concern and submit it to the
6 ~~superintendent~~ *Superintendent* shall document the concern and submit it to the
7 nonpublic, nonsectarian school or agency at the time of the onsite
8 investigation monitoring. The ~~superintendent~~ *Superintendent*
9 shall require a written response to any noncompliance or
10 deficiency found.

11 (2) With respect to a nonpublic, nonsectarian school, the
12 ~~superintendent~~ *Superintendent* shall conduct an investigation,
13 which may include an unannounced onsite visit, if the
14 ~~superintendent~~ *Superintendent* receives evidence of a significant
15 deficiency in the quality of educational services provided or a
16 violation of Section 56366.9 or noncompliance with the policies
17 expressed by subdivision (b) of Section 1501 of the Health and
18 Safety Code by the nonpublic, nonsectarian school. The
19 ~~superintendent~~ *Superintendent* shall document the complaint and
20 the results of the investigation and shall provide copies of the
21 documentation to the complainant, the nonpublic, nonsectarian
22 school, and the contracting local educational agency.

23 (3) Violations or noncompliance documented pursuant to
24 paragraph (1) or (2) shall be reflected in the status of the
25 certification of the school, at the discretion of the ~~superintendent~~
26 *Superintendent*, pending an approved plan of correction by the
27 nonpublic, nonsectarian school. The department shall retain for a
28 period of 10 years, all violations pertaining to certification of the
29 nonpublic, nonsectarian school or agency.

30 (j) The ~~superintendent~~ *Superintendent* shall monitor the
31 facilities, the educational environment, and the quality of the
32 educational program, including the teaching staff, the credentials
33 authorizing service, the standards-based core curriculum being
34 employed, and the standard focused instructional materials used,
35 of an existing certified nonpublic, nonsectarian school or agency
36 on a three-year cycle, as follows:

1 (1) The nonpublic, nonsectarian school or agency shall
2 complete a self-review in year one.

3 (2) The ~~superintendent~~ *Superintendent* shall conduct an onsite
4 review of the nonpublic, nonsectarian school or agency in year
5 two.

6 (3) The ~~superintendent~~ *Superintendent* shall conduct a
7 followup visit to the nonpublic, nonsectarian school or agency in
8 year three.

9 (k) (1) Notwithstanding any other provision of law, the
10 ~~superintendent~~ *Superintendent* may not certify a nonpublic,
11 nonsectarian school or agency that proposes to initiate or expand
12 services to pupils currently educated in the immediate prior fiscal
13 year in a juvenile court program, community school pursuant to
14 Section 56150, or other nonspecial education program, including
15 independent study or adult school, or both, unless the nonpublic,
16 nonsectarian school or agency notifies the county superintendent
17 of schools and the special education local plan area in which the
18 proposed new or expanded nonpublic, nonsectarian school or
19 agency is located of its intent to seek certification.

20 (2) The notification shall occur no later than the December 1
21 prior to the new fiscal year in which the proposed or expanding
22 school or agency intends to initiate services. The notice shall
23 include the following:

24 (A) The specific date upon which the proposed nonpublic,
25 nonsectarian school or agency is to be established.

26 (B) The location of the proposed program or facility.

27 (C) The number of pupils proposed for services, the number of
28 pupils currently served in the juvenile court, community school,
29 or other nonspecial education program, the current school
30 services including special education and related services
31 provided for these pupils, and the specific program of special
32 education and related services to be provided under the proposed
33 program.

34 (D) The reason for the proposed change in services.

35 (E) The number of staff that will provide special education and
36 ~~designated instruction and related services~~ *related* and hold a
37 current valid California credential or license in the service
38 rendered or certificate of registration to provide occupational
39 therapy.

(3) In addition to the requirements in subdivisions (a) through (f), inclusive, the ~~superintendent~~ *Superintendent* shall require and consider the following in determining whether to certify a nonpublic, nonsectarian school or agency as described in this subdivision:

(A) A complete statement of the information required as part of the notice under paragraph (1).

(B) Documentation of the steps taken in preparation for the conversion to a nonpublic, nonsectarian school or agency, including information related to changes in the population to be served and the services to be provided pursuant to each pupil's individualized education program.

(4) Notwithstanding any other provision of law, the certification becomes effective no earlier than July 1, if the school or agency provided the notification required pursuant to paragraph (1).

(I) (1) Commencing July 1, 2006, notwithstanding any other provision of law, the ~~superintendent~~ *Superintendent* may not certify or renew the certification of a nonpublic, nonsectarian school or agency, unless all of the following conditions are met:

(A) The entity operating the nonpublic, nonsectarian school or agency maintains separate financial records for each entity that it operates, with each nonpublic, nonsectarian school or agency identified separately from any licensed children's institution that it operates.

(B) The entity submits an annual budget that identifies the projected costs and revenues for each entity and demonstrates that the rates to be charged are reasonable to support the operation of the entity.

(C) The entity submits an entity-wide annual audit that identifies its costs and revenues, by entity, in accordance with generally accepted accounting and auditing principles. The audit shall clearly document the amount of moneys received and expended on the education program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the

educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, the term licensed children's institution has the same meaning as it is defined by Section 56155.5.

(m) The school or agency shall be charged a reasonable fee for certification. The ~~superintendent~~ *Superintendent* may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

| | |
|------------------------------|--------|
| (1) 1-5 pupils | \$ 300 |
| | 150 |
| (2) 6-10 pupils | 500 |
| | 250 |
| (3) 11-24 pupils | 1,000 |
| | 500 |
| (4) 25-75 pupils | 1,500 |
| | 750 |
| (5) 76 pupils and over | 2,000 |
| | 1,000 |

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual review by the superintendent. The ~~superintendent~~ *Superintendent* shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the ~~superintendent~~ *Superintendent*.

(n) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and ~~designated instruction and related services~~ utilizing staff who hold ~~a certificate, permit, or other document equivalent to that which staff in a public school are required to hold, or are receiving training under the supervision of staff who hold, a current valid California credential or license~~ in the

1 service rendered~~are~~ *shall be* eligible to receive certification.
2 Only those nonpublic, nonsectarian schools or agencies located
3 outside of California that employ staff who hold a current valid
4 credential or license to render special education and related
5 services as required by that state shall be eligible to be certified.

6 (2) The state board shall develop regulations to implement this
7 subdivision.

8 (o) In addition to meeting the standards adopted by the board,
9 a nonpublic, nonsectarian school or agency shall provide written
10 assurances that it meets all applicable standards relating to fire,
11 health, sanitation, and building safety.

12 *SEC. 132. Section 56366.2 of the Education Code is amended*
13 *to read:*

14 56366.2. (a) A district, special education local plan area,
15 county office, nonpublic, nonsectarian school, or nonpublic,
16 nonsectarian agency may petition the ~~superintendent~~
17 *Superintendent* to waive one or more of the requirements under
18 Sections 56365, 56366, 56366.3, 56366.6, and 56366.7. The
19 petition shall state the reasons for the waiver request, and shall
20 include the following:

21 (1) Sufficient documentation to demonstrate that the waiver is
22 necessary to the content and implementation of a specific pupil's
23 individualized education program and the pupil's current
24 placement.

25 (2) The period of time that the waiver will be effective during
26 any one school year.

27 (3) Documentation and assurance that the waiver does not
28 abrogate any right provided ~~individuals with exceptional needs~~
29 *pupils with disabilities* and their parents or guardians under state
30 or federal law, and does not hinder the compliance of a district,
31 special education local plan area, or county office with the
32 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400
33 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.
34 Sec. 794), the Americans with Disabilities Act of 1990 (42
35 U.S.C. Sec. 12101 et seq.), and federal regulations relating
36 thereto.

37 (b) No waiver shall be granted for reimbursement of those
38 costs prohibited under Article 4 (commencing with Section
39 56836.20) of Chapter 7.2 of Part 30 or for the certification

1 requirements pursuant to Section 56366.1 unless approved by the
2 board pursuant to Section 56101.

3 (c) In submitting the annual report on waivers granted under
4 Section 56101 and this section to the State Board of Education,
5 the ~~superintendent~~ *Superintendent* shall specify information
6 related to the provision of special education and related services
7 to ~~individuals with exceptional needs~~ *pupils with disabilities*
8 through contracts with nonpublic, nonsectarian schools and
9 agencies located in the state, nonpublic, nonsectarian school and
10 agency placements in facilities located out of state, and the
11 specific section waived pursuant to this section.

12 *SEC. 133. Section 56366.3 of the Education Code is amended*
13 *to read:*

14 56366.3. (a) No contract for special education and related
15 services provided by a nonpublic, nonsectarian agency shall be
16 reimbursed by the state pursuant to Article 4 (commencing with
17 Section 56836.20) of Chapter 7.2 and Section 56836.16 if the
18 contract covers special education and related services,
19 administration, or supervision by an individual who is or was an
20 employee of a contracting district, special education local plan
21 area, or county office within the last 365 days. Former
22 contracting agency personnel may be employed by a nonpublic,
23 nonsectarian agency if the personnel were involuntarily
24 terminated or laid off as part of necessary staff reductions from
25 the district, special education local plan area, or county office.

26 (b) This section does not apply to any person who is able to
27 provide ~~designated instruction and related services related~~ during
28 the extended school year because he or she is otherwise
29 employed for up to 10 months of the school year by the district,
30 special education local plan area, or county office.

31 *SEC. 134. Section 56366.4 of the Education Code is amended*
32 *to read:*

33 56366.4. (a) The ~~superintendent~~ *Superintendent* may revoke
34 or suspend the certification of a nonpublic, nonsectarian school
35 or agency for any of the following reasons:

36 (1) Violation of any applicable state or federal rule or
37 regulation, or aiding, abetting, or permitting the violation of any
38 applicable state or federal rule or regulation.

1 (2) Falsification or intentional misrepresentation of any
2 element of the application, pupil records, or program presented
3 for certification purposes.

4 (3) Conduct in the operation or maintenance of the nonpublic,
5 nonsectarian school or agency that is harmful to the health,
6 welfare, or safety of ~~an individual with exceptional needs~~ *a pupil*
7 *with a disability*.

8 (4) Failure to comply with any provision in the contract with
9 the local education entity.

10 (5) Failure to notify the department in writing of any of the
11 following within 45 days of the occurrence:

12 (A) Changes in credentialed, licensed, or registered staff who
13 render special education and related services, ownership,
14 management, or control of the nonpublic, nonsectarian school or
15 agency.

16 (B) Major modification or relocation of facilities.

17 (C) Significant modification of the nonpublic, nonsectarian
18 school or agency program.

19 (6) Failure to implement recommendations and compliance
20 requirements following an onsite review of the school or agency.

21 (7) Failure to provide appropriate services, supplies,
22 equipment, or facilities for a pupil as required in his or her
23 individualized education program.

24 (8) Failure to notify the ~~superintendent~~ *Superintendent* in
25 writing within 10 days of the revocation or suspension of any
26 license or permit including, but not limited to, any residential
27 care license, business license, or other required license or permit.

28 (9) Failure to implement a pupil's individualized education
29 program.

30 (10) Failure to notify the ~~superintendent~~ *Superintendent* in
31 writing within 10 days of the death of a pupil or any other
32 individual of unnatural causes within the school or agency,
33 including the circumstances surrounding the death and any
34 appropriate preventative measures being taken or recommended.

35 (b) The ~~superintendent~~ *Superintendent* shall notify contracting
36 local education agencies and the special education local plan area
37 in which the nonpublic, nonsectarian school or agency is located
38 of the determination to suspend or revoke state certification.

39 *SEC. 135. Section 56366.5 of the Education Code is amended*
40 *to read:*

56366.5. (a) Upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under a contract entered into pursuant to Sections 56365 and 56366, the local educational agency shall either (1) send a warrant for the amount requested within 45 days, or (2) notify the nonpublic, nonsectarian school within 10 working days of any reason why the requested payment shall not be paid.

(b) If the local educational agency fails to comply with subdivision (a), the nonpublic, nonsectarian school may require the local educational agency to pay an additional amount of 1 ½ percent of the unpaid balance per month until full payment is made. The local educational agency may not claim reimbursement from the state for the additional amount pursuant to any provision of law, including any provision contained in Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

(c) Any educational funds received from a local educational agency for the educational costs of ~~individuals with exceptional needs~~ *pupils with disabilities* it has placed in nonpublic, nonsectarian schools shall be used solely for those purposes and not for the costs of a residential program.

SEC. 136. Section 56367 of the Education Code is amended to read:

56367. (a) Placements in state special schools pursuant to Sections 59020, 59120, and 59220 shall be made only as a result of recommendations from the individualized education program team, upon a finding that no appropriate placement is available in the local plan area.

(b) Notwithstanding the provisions of subdivision (a), referrals for further ~~assessment~~ *evaluation* and recommendations to the California Schools for the Deaf and Blind or the Diagnostic Centers, pursuant to Section 56326, shall not constitute placements in state special schools.

SEC. 137. Section 56368 of the Education Code is amended to read:

56368. (a) A program specialist is a specialist who holds a valid special education credential, clinical services credential, health services credential, or a school psychologist authorization and has advanced training and related experience in the education of ~~individuals with exceptional needs~~ *pupils with disabilities* and

1 a specialized in-depth knowledge in preschool disabilities, career
2 vocational development, or one or more areas of major disabling
3 conditions.

4 (b) A program specialist may do all the following:

5 (1) Observe, consult with, and assist resource specialists,
6 ~~designated instruction and related~~ services instructors, and
7 special class teachers.

8 (2) Plan programs, coordinate curricular resources, and
9 evaluate effectiveness of programs for ~~individuals with~~
10 ~~exceptional needs~~ *pupils with disabilities*.

11 (3) Participate in each school's staff development, program
12 development, and innovation of special methods and approaches.

13 (4) Provide coordination, consultation and program
14 development primarily in one specialized area or areas of his or
15 her expertise.

16 (5) Be responsible for assuring that pupils have full
17 educational opportunity regardless of the district of residence.

18 (c) For purposes of Section 41403, a program specialist shall
19 be considered a pupil services employee, as defined in
20 subdivision (c) of Section 41401.

21 *SEC. 138. Section 56380 of the Education Code is repealed.*

22 ~~56380. (a) The district, special education local plan area, or~~
23 ~~county office shall maintain procedures for conducting, on at~~
24 ~~least an annual basis, reviews of all individualized education~~
25 ~~programs. The procedures shall provide for the review of the~~
26 ~~pupil's progress and the appropriateness of placement, and the~~
27 ~~making of any necessary revisions.~~

28 ~~(b) The district, special education local plan area, or county~~
29 ~~office shall notify, in writing, parents of their right to request a~~
30 ~~review by the individualized education program team. The notice~~
31 ~~may be part of the individualized education program.~~

32 ~~(c) Each individualized education program review shall be~~
33 ~~conducted in accordance with the notice and scheduling~~
34 ~~requirements for the initial assessment.~~

35 *SEC. 139. Section 56380 is added to the Education Code, to*
36 *read:*

37 *56380. (a) The local educational agency shall ensure that,*
38 *subject to subdivision (b), the IEP team does all of the following:*

1 (1) Reviews the pupil's IEP periodically, but not less
2 frequently than annually, to determine whether the annual goals
3 for the pupil are being achieved.

4 (2) Revises the IEP as appropriate to address the following:

5 (A) Any lack of expected progress toward the annual goals
6 and in the general education curriculum, where appropriate.

7 (B) The results of any reevaluation conducted under this
8 section.

9 (C) Information about the child provided to, or by, the
10 parents.

11 (D) The child's anticipated needs.

12 (E) Other matters.

13 (b) A regular education teacher of the child, as a member of
14 the IEP team, shall, consistent with subdivision (b) of Section
15 56341, participate in the review and revision of the IEP of the
16 pupil.

17 SEC. 140. Section 56381 of the Education Code is repealed.

18 ~~56381. (a) A reassessment of the pupil, based upon~~
19 ~~procedures specified in Article 2 (commencing with Section~~
20 ~~56320) shall be conducted at least once every three years or more~~
21 ~~frequently, if conditions warrant a reassessment, or if the pupil's~~
22 ~~parent or teacher requests a reassessment and a new~~
23 ~~individualized education program to be developed.~~

24 ~~If the reassessment so indicates, a new individualized~~
25 ~~education program shall be developed.~~

26 ~~(b) As part of any reassessment, the individualized education~~
27 ~~program team and other qualified professionals, as appropriate,~~
28 ~~shall do the following:~~

29 ~~(1) Review existing assessment data on the pupil, including~~
30 ~~assessments and information provided by the parents of the pupil,~~
31 ~~as specified in clause (i) of paragraph (1) of subsection (a) of~~
32 ~~Section 300.533 of Title 34 of the Code of Federal Regulations,~~
33 ~~current classroom-based assessments and observations, and~~
34 ~~teacher and related services providers' observations.~~

35 ~~(2) On the basis of the review conducted pursuant to paragraph~~
36 ~~(1), and input from the pupil's parents, identify what additional~~
37 ~~data, if any, is needed to determine:~~

38 ~~(A) Whether the pupil continues to have a disability described~~
39 ~~in paragraph (3) of Section 1401 of Title 20 of the United States~~
40 ~~Code.~~

~~(B) The present levels of performance and educational needs of the pupil.~~

~~(C) Whether the pupil continues to need special education and related services.~~

~~(D) Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.~~

~~(e) The local educational agency shall administer tests and other assessment materials needed to produce the data identified by the individualized education program team.~~

~~(d) If the individualized education program team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, the local educational agency shall notify the pupil's parents of that determination and the reasons for it, and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs. The local educational agency is not required to conduct an assessment, unless requested by the pupil's parents.~~

~~(e) A local educational agency shall assess an individual with exceptional needs in accordance with this section and procedures specified in Article 2 (commencing with Section 56320), as provided in paragraph (2) of subsection (e) of Section 300.534 of Title 34 of the Code of Federal Regulations.~~

~~(f) A reassessment may not be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (c) of Section 56506. Pursuant to paragraphs (1) and (2) of subsection (c) of Section 300.505 of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the child's parent has failed to respond. To meet the reasonable measure requirements of this subdivision, the local educational agency shall use procedures consistent with those set forth in subsection (d) of Section 300.345 of Title 34 of the Code of Federal Regulations.~~

1 ~~(g) The individualized education program team and other~~
2 ~~qualified professionals referenced in subdivision (b) may conduct~~
3 ~~the review without a meeting, as provided in subsection (b) of~~
4 ~~Section 300.533 of Title 34 of the Code of Federal Regulations.~~

5 ~~(h) Before determining that the individual is no longer an~~
6 ~~individual with exceptional needs, a local educational agency~~
7 ~~shall assess the individual in accordance with Section 56320 and~~
8 ~~this section, as appropriate, and Sections 300.532 and 300.533 of~~
9 ~~Title 34 of the Code of Federal Regulations, pursuant to~~
10 ~~paragraph (1) of subsection (e) of Section 300.534 of Title 34 of~~
11 ~~the Code of Federal Regulations.~~

12 *SEC. 141. Section 56381 is added to the Education Code, to*
13 *read:*

14 *56381. (a) A local educational agency shall ensure that a*
15 *reevaluation of each pupil with a disability is conducted in*
16 *accordance with Section 56320 if either of the following is*
17 *applicable:*

18 *(1) The local educational agency determines that the*
19 *educational or related services needs, including improved*
20 *academic achievement and functional performance, of the pupil*
21 *warrant a reevaluation.*

22 *(2) The pupil's parents or teacher requests a reevaluation.*

23 *(b) A reevaluation conducted under subdivision (a) shall occur*
24 *as follows:*

25 *(1) Not more frequently than once a year, unless the parent*
26 *and the local educational agency agree otherwise.*

27 *(2) At least once every three years, unless the parent and the*
28 *local educational agency agree that a reevaluation is*
29 *unnecessary.*

30 *(c) Each local educational agency shall obtain informed*
31 *parental consent prior to conducting any reevaluation of a pupil*
32 *with a disability, except that the informed parental consent need*
33 *not be obtained if the local educational agency can demonstrate*
34 *that it had taken reasonable measures to obtain the consent and*
35 *the pupil's parent has failed to respond.*

36 *SEC. 142. Section 56382 of the Education Code is amended*
37 *to read:*

38 *56382. All review and reassessment reevaluation procedures*
39 *for individuals with exceptional needs children with disabilities*
40 *who are younger than three years of age shall be provided*

1 pursuant to Chapter 4.4 (commencing with Section 56425) and
2 the California Early Intervention Services Act, Title 14
3 (commencing with Section 95000) of the Government Code.

4 *SEC. 143. Section 56383 of the Education Code is amended*
5 *to read:*

6 56383. Pursuant to subsection (b) of Section 300.349 of Title
7 34 of the Code of Federal Regulations, after ~~an individual with~~
8 ~~exceptional needs~~ a pupil with a disability is placed in a
9 nonpublic, nonsectarian school under Section 56366, any
10 meetings to review and revise the pupil's individualized
11 education program may be conducted by the nonpublic,
12 nonsectarian school at the discretion of the district, special
13 education local plan area, or county office of education.
14 However, even if a nonpublic, nonsectarian school implements a
15 ~~child's~~ pupil's individualized education program, responsibility
16 for compliance with this part and with the *federal* Individuals
17 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and
18 implementing regulations remains with the district, special
19 education local plan area, or county office of education pursuant
20 to subsection (c) of Section 300.349 of Title 34 of the Code of
21 Federal Regulations.

22 *SEC. 144. Section 56385 of the Education Code is repealed.*

23 56385. (a) ~~As provided in Section 300.138 of Title 34 of the~~
24 ~~Code of Federal Regulations, individuals with exceptional needs~~
25 ~~shall be included in general statewide and districtwide~~
26 ~~assessment programs, with appropriate accommodations, when~~
27 ~~necessary.~~

28 (b) ~~The superintendent shall develop guidelines for the~~
29 ~~participation of individuals with exceptional needs in alternative~~
30 ~~assessments for those pupils who cannot participate in statewide~~
31 ~~and districtwide assessment programs.~~

32 (c) ~~The department shall make available to the public reports~~
33 ~~regarding the assessment of pupils that have been identified as~~
34 ~~individuals with exceptional needs with the same frequency and~~
35 ~~in the same detail as it reports on the assessment of pupils that~~
36 ~~have not been so identified, in accordance with Section 300.139~~
37 ~~of Title 34 of the Code of Federal Regulations.~~

38 *SEC. 145. Section 56385 is added to the Education Code, to*
39 *read:*

1 56385. (a) Each pupil with a disability must be included in
2 all general state and districtwide assessment programs,
3 including assessments described under Section 6311 of the
4 Elementary and Secondary Education Act of 1965 (20 U.S.C.
5 Sec. 6301 et seq.), with appropriate accommodations and
6 alternate assessments where necessary and as indicated in his or
7 her individualized education program.

8 (b) The State Board of Education or, in the case of a
9 districtwide assessment, the local educational agency, shall
10 develop guidelines for the provision of appropriate
11 accommodations.

12 (c) (1) The state board's or, in the case of a districtwide
13 assessment, the local educational agency, shall develop and
14 implement guidelines for the participation of each pupil with a
15 disability in alternate assessments if he or she cannot participate
16 in regular assessments under subdivision (a) with
17 accommodations as indicated in his or her individualized
18 education program.

19 (2) The guidelines under this subdivision shall provide for
20 alternate assessments that are aligned with the state's
21 challenging academic content standards and challenging pupil
22 academic achievement standards, and, if the state has adopted
23 alternate academic achievement standards permitted under the
24 regulations promulgated to carry out Section 6311 of the
25 Elementary and Secondary Education Act of 1965 (20 U.S.C.
26 Sec. 6301 et seq.), that measure the achievement of pupils with
27 disabilities against those standards.

28 (3) The State Board of Education shall conduct the alternate
29 assessments described in this subdivision.

30 (d) The State Board of Education, or, in the case of a
31 districtwide assessment, the local educational agency, shall make
32 available to the public, and shall report to the public, with the
33 same frequency and in the same detail as it reports on the
34 assessment of nondisabled pupils, information as to all of the
35 following:

36 (1) The number of pupils with disabilities participating in
37 regular assessments, and the number of those pupils who were
38 provided accommodations in order to participate in those
39 assessments.

1 (2) *The number of pupils with disabilities participating in*
2 *alternate assessments described in subdivision (c).*

3 (3) *The number of pupils with disabilities participating in*
4 *alternate assessments described in subdivision (c).*

5 (4) *The performance of children with disabilities on regular*
6 *assessments and on alternate assessments if the number of*
7 *children with disabilities participating in those alternate*
8 *assessments is sufficient to yield statistically reliable information*
9 *and reporting that information will not reveal personally*
10 *identifiable information about an individual pupil, compared*
11 *with the achievement of all children, including children with*
12 *disabilities, on those assessments.*

13 (e) *The State Board of Education, or, in the case of a*
14 *districtwide assessment, the local educational agency, shall, to*
15 *the extent feasible, use universal design principles in developing*
16 *and administering any assessments under this section.*

17 SEC. 146. *Section 56390 of the Education Code is amended*
18 *to read:*

19 56390. Notwithstanding Section 51412 or any other provision
20 of law, a local educational agency may award ~~an individual with~~
21 ~~exceptional needs~~ *a pupil with a disability* a certificate or
22 document of educational achievement or completion if the
23 requirements of subdivision (a), (b), or (c) are met.

24 (a) ~~The individual pupil~~ has satisfactorily completed a
25 prescribed alternative course of study approved by the governing
26 board of the school district in which the ~~individual pupil~~ attended
27 school or the school district with jurisdiction over the ~~individual~~
28 *pupil* and identified in his or her individualized education
29 program.

30 (b) ~~The individual pupil~~ has satisfactorily met his or her
31 individualized education program goals and objectives during
32 high school as determined by the individualized education
33 program team.

34 (c) ~~The individual pupil~~ has satisfactorily attended high
35 school, participated in the instruction as prescribed in his or her
36 individualized education program, and has met the objectives of
37 the statement of transition services.

38 SEC. 147. *Section 56391 of the Education Code is amended*
39 *to read:*

56391. ~~An individual with exceptional needs~~ *A pupil with a disability* who meets the criteria for a certificate or document described in Section 56390 shall be eligible to participate in any graduation ceremony and any school activity related to graduation in which a pupil of similar age without disabilities would be eligible to participate. The right to participate in graduation ceremonies does not equate a certificate or document described in Section 56390 with a regular high school diploma.

SEC. 148. Section 56392 of the Education Code is amended to read:

56392. It is not the intent of the Legislature by enacting this chapter to eliminate the opportunity for ~~an individual with exceptional needs~~ *a pupil with a disability* to earn a ~~standard~~ *regular* diploma issued by ~~the department~~ *a local or state* educational agency when the pupil has completed the prescribed course of study and has passed the proficiency requirements with or without differential standards.

SEC. 149. Section 56425 of the Education Code is amended to read:

56425. (a) As a condition of receiving state aid pursuant to this part, each district, special education local plan area, or county office that operated ~~early-education intervention~~ *early-education intervention* programs for ~~individuals with exceptional needs~~ *pupils with disabilities* younger than three years of age, as defined in Section 56026, and that received state or federal aid for special education for those programs in the 1980–81 fiscal year, shall continue to operate ~~early-education intervention~~ *early-education intervention* programs in the 1981–82 fiscal year and each fiscal year thereafter.

If

(b) If a district or county office offered those programs described in subdivision (a) in the 1980-81 fiscal year but in a subsequent year transfers the programs to another district or county office in the special education local plan area, the district or county office shall be exempt from the provisions of this section in any year when the programs are offered by the district or county office to which they were transferred.

And

(c) A district, special education local plan area, or county office that is required to offer a program pursuant to this section shall be eligible for funding pursuant to Section 56432.

1 ~~This section shall become operative on July 1, 1998.~~

2 *SEC. 150. Section 56425.5 of the Education Code is amended*
3 *to read:*

4 56425.5. (a) The Legislature hereby finds and declares that
5 ~~early education programs for infants identified as individuals~~
6 ~~with exceptional needs that provide educational services with~~
7 ~~active parent involvement, can significantly reduce the potential~~
8 ~~impact of many disabling conditions, and positively influence~~
9 ~~later development when the child reaches schoolage.~~

10 ~~Early education~~ *there is an urgent and substantial need to do*
11 *all of the following:*

12 (1) *Enhance the development of infants and toddlers with*
13 *disabilities, to minimize their potential for developmental delay,*
14 *and to recognize the significant brain development that occurs*
15 *during a child's first three years of life.*

16 (2) *Reduce the educational costs to our society, including the*
17 *schools, by minimizing the need for special education and related*
18 *services after infants and toddlers with disabilities reach school*
19 *age.*

20 (3) *Maximize the potential for individuals with disabilities to*
21 *live independently in society.*

22 (4) *Enhance the capacity of families to meet the special needs*
23 *of their infants and toddlers with disabilities.*

24 (5) *Enhance the capacity of state and local agencies and*
25 *service providers to identify, evaluate, and meet the needs of all*
26 *children, particularly minority, low-income, inner city, and rural*
27 *children, and infants and toddlers in foster care.*

28 (b) *Early intervention programs funded pursuant to Sections*
29 *56427, 56428, and 56432 shall provide a continuum of program*
30 *options provided by a transdisciplinary team to meet the multiple*
31 *and varied needs of infants and toddlers and their families.*
32 *Recognizing the parent as the infant's or toddler's primary*
33 *teacher, it is the Legislature's intent that early*~~education~~
34 *intervention programs shall include opportunities for the family*
35 *to receive home visits, group services, and to participate in*
36 *family involvement activities pursuant to Sections 56426.1 and*
37 *56426.4. It is the intent of the Legislature that, as an infant grows*
38 *older, program emphasis would shift from home-based services*
39 *to a combination of home-based and group services.*

40 ~~¶~~

1 (c) It is further the intent of the Legislature that services
2 rendered by state and local agencies serving infants *and toddlers*
3 with ~~exceptional needs~~ *disabilities* and their families be
4 coordinated and maximized.

5 ~~This section shall become operative on July 1, 1998.~~

6 *SEC. 151. Section 56426 of the Education Code is repealed.*

7 ~~56426. An early education program shall include services
8 specially designed to meet the unique needs of infants, from birth
9 to three years of age, and their families. The primary purpose of
10 an early education program is to enhance development of the
11 infant. To meet this purpose, the program shall focus upon the
12 infant and his or her family, and shall include home visits, group
13 services, and family involvement activities. Early education
14 programs funded pursuant to Sections 56427, 56428, and 56432
15 shall include, as program options, home-based services pursuant
16 to Section 56426.1 and home-based and group services pursuant
17 to Section 56426.2, and shall be provided in accordance with the
18 Individuals with Disabilities Education Act (20 U.S.C. Secs.
19 1431 to 1445, incl.), and the California Early Intervention
20 Services Act, Title 14 (commencing with Section 95000) of the
21 Government Code.~~

22 ~~This section shall become operative on July 1, 1998.~~

23 *SEC. 152. Section 56426 is added to the Education Code, to*
24 *read:*

25 *56426. (a) The term “at-risk infant or toddler” means a*
26 *child under three years of age who would be at risk of*
27 *experiencing a substantial developmental delay if early*
28 *intervention services were not provided to the child.*

29 *(b) The term “council” means a state interagency*
30 *coordinating council established by the Governor in accordance*
31 *with Section 1441 of Title 20 of the United States Code.*

32 *(c) The term “developmental delay,” when used with respect*
33 *to an individual residing in a state, has the meaning given that*
34 *term by the state under paragraph (1) of subsection (a) of Section*
35 *1435 of Title 20 of the United States Code.*

36 *(d) The term “early intervention services” means*
37 *developmental services that are all of the following:*

38 *(1) Provided under public supervision.*

1 (2) *Provided at no cost except where federal or state law*
2 *provides for a system of payments by families, including a*
3 *schedule of sliding fees.*

4 (3) *Designed to meet the developmental needs of an infant or*
5 *toddler with a disability, as identified by the individualized*
6 *family service plan team, in any one or more of the following*
7 *areas:*

8 (A) *Physical development.*

9 (B) *Cognitive development.*

10 (C) *Communication development.*

11 (D) *Social or emotional development.*

12 (E) *Adaptive development.*

13 (4) *Meet the standards of the state in which the services are*
14 *provided, including the requirements of this part.*

15 (5) *Include all of the following:*

16 (A) *Family training, counseling, and home visits.*

17 (B) *Special instruction.*

18 (C) *Speech-language pathology and audiology services, and*
19 *sign language and cued language services.*

20 (D) *Occupational therapy.*

21 (E) *Physical therapy.*

22 (F) *Psychological services.*

23 (G) *Service coordination services.*

24 (H) *Medical services only for diagnostic or evaluation*
25 *purposes.*

26 (I) *Early identification, screening, and assessment services.*

27 (J) *Health services necessary to enable the infant or toddler to*
28 *benefit from the other early intervention services.*

29 (K) *Social work services.*

30 (L) *Vision services.*

31 (M) *Assistive technology devices and assistive technology*
32 *services.*

33 (N) *Transportation and related costs that are necessary to*
34 *enable an infant or toddler and the infant's or toddler's family to*
35 *receive another service described in this paragraph.*

36 (6) *Are provided by qualified personnel, including all of the*
37 *following:*

38 (A) *Special educators.*

39 (B) *Speech-language pathologists and audiologists.*

40 (C) *Occupational therapists.*

1 (D) *Physical therapists.*

2 (E) *Psychologists.*

3 (F) *Social workers.*

4 (G) *Nurses.*

5 (H) *Registered dietitians.*

6 (I) *Family therapists.*

7 (J) *Vision specialists, including ophthalmologists and*
8 *optometrists.*

9 (K) *Orientation and mobility specialists.*

10 (L) *Pediatricians and other physicians.*

11 (7) *To the maximum extent appropriate, are provided in*
12 *natural environments, including the home, and community*
13 *settings in which children without disabilities participate.*

14 (8) *Are provided in conformity with an individualized family*
15 *service plan adopted in accordance with Section 1436 of Title 20*
16 *of the United States Code.*

17 (e) *The term “infant or toddler with a disability” means:*

18 (1) *A child under three years of age who needs early*
19 *intervention services because either of the following is*
20 *applicable:*

21 (A) *The child is experiencing developmental delays, as*
22 *measured by appropriate diagnostic instruments and procedures*
23 *in one or more of the areas of cognitive development, physical*
24 *development, communication development, social or emotional*
25 *development, and adaptive development.*

26 (B) *The child has a diagnosed physical or mental condition*
27 *that has a high probability of resulting in developmental delay.*

28 (f) *The term “infant or toddler with a disability” may also*
29 *include either of the following:*

30 (A) *An at-risk infant or toddler.*

31 (B) *A pupil with a disability who is eligible for services under*
32 *Section 1419 of Title 20 of the United States Code and who*
33 *previously received services under this part until the child enters,*
34 *or is eligible under state law to enter, kindergarten or elementary*
35 *school, as appropriate, provided that any programs under this*
36 *part serving the child shall include both of the following:*

37 (i) *An educational component that promotes school readiness*
38 *and incorporates pre-literacy, language, and numeracy skills.*

39 (ii) *A written notification to parents of their rights and*
40 *responsibilities in determining whether their child will continue*

1 *to receive services under this part or participate in preschool*
2 *programs under Section 1419 of Title 20 of the United States*
3 *Code.*

4 *SEC. 153. Section 56426.1 of the Education Code is amended*
5 *to read:*

6 56426.1. (a) Home-based early—~~education~~ *intervention*
7 services funded pursuant to Sections 56427, 56428, and 56432
8 shall include, but not be limited to, all of the following:

9 (1) Observing the infant's *or toddler's* behavior and
10 development in his or her natural environment.

11 (2) Presenting activities that are developmentally appropriate
12 for the infant *or toddler* and are specially designed, based on the
13 infant's *or toddler's* ~~exceptional needs~~ *disabilities*, to enhance
14 the infant's *or toddler's* development. Those activities shall be
15 developed to conform with the infant's *or toddler's*
16 individualized family service plan and to ensure that they do not
17 conflict with his or her medical needs.

18 (3) Modeling and demonstrating developmentally appropriate
19 activities for the infant *or toddler* to the parents, siblings, and
20 other caregivers, as designated by the parent.

21 (4) Interacting with the family members and other caregivers,
22 as designated by the parent, to enhance and reinforce their
23 development of skills necessary to promote the infant's *or*
24 *toddler's* development.

25 (5) Discussing parental concerns related to the infant *or*
26 *toddler* and the family, and supporting parents in coping with
27 their infant's *or toddler's* needs.

28 (6) Assisting parents to solve problems, to seek other services
29 in their community, and to coordinate the services provided by
30 various agencies.

31 (b) The frequency of home-based services shall be once or
32 twice a week, depending on the needs of the infant *or toddler* and
33 the family.

34 ~~(c) This section shall become operative on July 1, 1998.~~

35 *SEC. 154. Section 56426.2 of the Education Code is amended*
36 *to read:*

37 56426.2. (a) Early—~~education~~ *intervention* services funded
38 pursuant to Sections 56427, 56428, and 56432 shall be provided
39 through both home visits and group settings with other infants, *or*

1 *toddlers* with or without the parent. Home-based and group
2 services shall include, but not be limited to, all of the following:

3 (1) All services identified in subdivision (a) of Section
4 56426.1.

5 (2) Group and individual activities that are developmentally
6 appropriate and specially designed, based on the infant's
7 ~~exceptional needs~~ *or toddler's disabilities*, to enhance the
8 infant's *or toddler's* development. Those activities shall be
9 developed to conform with the infant's *or toddler's*
10 individualized family service plan and to ensure that they do not
11 conflict with his or her medical needs.

12 (3) Opportunities for infants *or toddlers* to socialize and
13 participate in play and exploration activities.

14 (4) Transdisciplinary services by therapists, psychologists, and
15 other specialists as appropriate.

16 (5) Access to various developmentally appropriate equipment
17 and specialized materials.

18 (6) Opportunities for family involvement activities, including
19 parent education and parent support groups.

20 (b) Services provided in a center under this chapter shall not
21 include child care or respite care.

22 (c) The frequency of group services shall not exceed three
23 hours a day for up to, and including, three days a week, and shall
24 be determined on the basis of the needs of the infant *or toddler*
25 and the family.

26 (d) The frequency of home visits provided in conjunction with
27 group services shall range from one to eight visits per month,
28 depending on the needs of the infant *or toddler* and the family.

29 (e) Group services shall be provided on a ratio of no more than
30 four infants *or toddlers* to one adult.

31 (f) Parent participation in group services shall be encouraged.

32 ~~(g) This section shall become operative on July 1, 1998.~~

33 *SEC. 155. Section 56426.25 of the Education Code is*
34 *amended to read:*

35 56426.25. The maximum service levels set forth in Sections
36 56426.1 and 56426.2 apply only for purposes of the allocation of
37 funds for early-~~education~~ *intervention* programs pursuant to
38 Sections 56427, 56428, and 56432, and may be exceeded by a
39 district, special education local plan area, or county office, in
40 accordance with the infants' *or toddlers'* individualized family

1 service plan, provided that no change in the level of entitlement
2 to state funding under this part thereby results.

3 ~~This section shall become operative on July 1, 1998.~~

4 *SEC. 156. Section 56426.3 of the Education Code is amended*
5 *to read:*

6 56426.3. In addition to home-based or home-based and group
7 early education services, related services as defined in Section
8 300.13 of Title 34 of the Code of Federal Regulations, as that
9 section read on April 1, 1986, shall be available to infants *or*
10 *toddlers* and their families. Related services may be provided in
11 the home or at the center according to needs of the infant *or*
12 *toddler* and the family.

13 *SEC. 157. Section 56426.4 of the Education Code is amended*
14 *to read:*

15 56426.4. (a) Family involvement activities funded pursuant
16 to Sections 56427, 56428, and 56432 shall support family
17 members in meeting the practical and emotional issues and needs
18 of raising their infant *or toddler*. These activities may include,
19 but are not limited to, the following:

20 (1) Educational programs that present information or
21 demonstrate techniques to assist the family to promote their
22 infant's *or toddler's* development.

23 (2) Parent education and training to assist families in
24 understanding, planning for, and meeting the unique needs of
25 their infant *or toddler*.

26 (3) Parent support groups to share similar experiences and
27 possible solutions.

28 (4) Instruction in making toys and other materials appropriate
29 to their infant's ~~exceptional needs~~ *or toddler's disabilities* and
30 development.

31 (b) The frequency of family involvement activities shall be at
32 least once a month.

33 (c) Participation by families in family involvement activities
34 shall be voluntary.

35 ~~(d) This section shall become operative on July 1, 1998.~~

36 *SEC. 158. Section 56426.5 of the Education Code is amended*
37 *to read:*

38 56426.5. If the transdisciplinary team determines home-based
39 and group early ~~education~~ *intervention* services to be appropriate,
40 but the parent chooses not to receive home-based services, group

1 services shall be made available to the infant *or toddler*.
2 Similarly, the choice not to participate in family involvement
3 activities shall not limit the availability to the infant *or toddler*
4 and his or her family of home-based services or home-based and
5 group services as determined appropriate by the individualized
6 education program team.

7 *SEC. 159. Section 56426.6 of the Education Code is amended*
8 *to read:*

9 56426.6. (a) Early-~~education~~ *intervention* services shall be
10 provided by the district, special education local plan area, or
11 county office through a transdisciplinary team consisting of a
12 group of professionals from various disciplines, agencies, and
13 parents who shall share their expertise and services to provide
14 appropriate services for infants *or toddlers* and their families.
15 Each team member shall be responsible for providing and
16 coordinating early-~~education~~ *intervention* services for one or
17 more infants *or toddlers* and their families, and shall serve as a
18 consultant to other team members and as a provider of
19 appropriate related services to other infants *or toddlers* in the
20 program.

21 (b) Credentialed personnel with expertise in vision or hearing
22 impairments shall be made available by the district, special
23 education local plan area, or county office to early ~~education~~
24 *intervention* programs serving infants *or toddlers* identified in
25 accordance with subdivision (a), (b), or (d) of Section 3030 of
26 Title 5 of the California Code of Regulations, and shall be the
27 primary providers of services under those programs whenever
28 possible.

29 (c) Transdisciplinary teams may include, but need not be
30 limited to, qualified persons from the following disciplines:

- 31 (1) Early childhood special education.
- 32 (2) Speech and language therapy.
- 33 (3) Nursing, with a skill level not less than that of a registered
34 nurse.
- 35 (4) Social work, psychology, or mental health.
- 36 (5) Occupational therapy.
- 37 (6) Physical therapy.
- 38 (7) Audiology.
- 39 (8) Parent to parent support.

(d) Any person who is authorized by the district, special education local plan area, or county office to provide early education or related services to infants *or toddlers* shall have appropriate experience in normal and atypical infant *or toddler* development and an understanding of the unique needs of families of infants *or toddlers* with ~~exceptional needs~~ *disabilities*, or, absent that experience and understanding, shall undergo a comprehensive training plan for that purpose, which plan shall be developed and implemented as part of the staff development component of the local plan for early ~~education~~ *intervention* services.

SEC. 160. Section 56426.7 of the Education Code is amended to read:

56426.7. Medically necessary occupational therapy and physical therapy shall be provided to the infant *or toddler* when warranted by medical diagnosis and contained in the individualized family service plan, as specified under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

SEC. 161. Section 56426.8 of the Education Code is amended to read:

56426.8. (a) Early ~~education~~ *intervention* and related services shall be based on the needs of the infant *or toddler* and the family as determined by the individualized family service plan team, and shall be specified in the individualized family service plan, including the frequency and duration of each type of service. Any early ~~education or related service~~ *intervention services* may be provided only upon written parental consent.

(b) The individualized family service plan for any infant *or toddler* shall be developed in consultation with the infant's *or toddler's* physician in order to ensure that the services specified in the plan do not conflict with the infant's *or toddler's* medical needs.

SEC. 162. Section 56426.81 is added to the Education Code, to read:

56426.81. (a) *The Superintendent shall ensure that the statewide system described in Section 1433 of Title 20 of the United States Code includes, at a minimum, all of the following components:*

1 (1) *A rigorous definition of the term “developmental delay”*
2 *that will be used by the state in carrying out programs under this*
3 *part in order to appropriately identify infants and toddlers with*
4 *disabilities that are in need of services under this part.*

5 (2) *A state policy that is in effect and that ensures that*
6 *appropriate early intervention services based on scientifically*
7 *based research, to the extent practicable, are available to all*
8 *infants and toddlers with disabilities and their families, including*
9 *Indian infants and toddlers with disabilities and their families*
10 *residing on a reservation geographically located in the state and*
11 *infants and toddlers with disabilities who are homeless children*
12 *and their families.*

13 (3) *A timely, comprehensive, multidisciplinary evaluation of*
14 *the functioning of each infant or toddler with a disability in the*
15 *state, and a family directed identification of the needs of each*
16 *family of such an infant or toddler, to assist appropriately in the*
17 *development of the infant or toddler.*

18 (4) *For each infant or toddler with a disability in the state, an*
19 *individualized family service plan in accordance with Section*
20 *1436 of Title 20 of the United States Code, including service*
21 *coordination services in accordance with the service plan.*

22 (5) *A comprehensive child-find system, consistent with*
23 *Subchapter III (commencing with Section 1431) of Title 20 of the*
24 *United States Code, including a system for making referrals to*
25 *service providers that includes timelines and provides for*
26 *participation by primary referral sources and that ensures*
27 *rigorous standards for appropriately identifying infants and*
28 *toddlers with disabilities for services under this part that will*
29 *reduce the need for future services.*

30 (6) *A public awareness program focusing on early*
31 *identification of infants and toddlers with disabilities, including*
32 *the preparation and dissemination by the lead agency designated*
33 *or established under paragraph (10) to all primary referral*
34 *sources, especially hospitals and physicians, of information to be*
35 *given to parents, especially to inform parents with premature*
36 *infants, or infants with other physical risk factors associated with*
37 *learning or developmental complications, on the availability of*
38 *early intervention services under this part and of services under*
39 *Section 1419 of Title 20 of the United States Code, and*

1 *procedures for assisting those sources in disseminating the*
2 *information to parents of infants and toddlers with disabilities.*

3 *(7) A central directory that includes information on early*
4 *intervention services, resources, and experts available in the*
5 *state, and research and demonstration projects being conducted*
6 *in the state.*

7 *(8) (A) A comprehensive system of personnel development,*
8 *including the training of paraprofessionals and the training of*
9 *primary referral sources with respect to the basic components of*
10 *early intervention services available in the state that shall*
11 *include all of the following:*

12 *(i) Implementing innovative strategies and activities for the*
13 *recruitment and retention of early intervention service providers.*

14 *(ii) Promoting the preparation of early intervention providers*
15 *who are fully and appropriately qualified to provide early*
16 *intervention services under this part.*

17 *(iii) Training personnel to coordinate transition services for*
18 *infants and toddlers served under this part from a program*
19 *providing early intervention services under this part and under*
20 *Subchapter II (commencing with Section 1411) of the federal*
21 *Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400*
22 *et seq.), other than Section 1419 of Title 20 of the United States*
23 *Code, to a preschool program receiving funds under Section*
24 *1419 of Title 20 of the United States Code, or another*
25 *appropriate program.*

26 *(B) The system described in subparagraph (A) may include the*
27 *following:*

28 *(i) Training personnel to work in rural and inner-city areas.*

29 *(ii) Training personnel in the emotional and social*
30 *development of young children.*

31 *(9) Policies and procedures relating to the establishment and*
32 *maintenance of qualifications to ensure that personnel necessary*
33 *to carry out this part are appropriately and adequately prepared*
34 *and trained, including the establishment and maintenance of*
35 *qualifications that are consistent with any state-approved or*
36 *recognized certification, licensing, registration, or other*
37 *comparable requirements that apply to the area in which such*
38 *personnel are providing early intervention services, except that*
39 *nothing in this part shall be construed to prohibit the use of*
40 *paraprofessionals and assistants who are appropriately trained*

1 *and supervised in accordance with state law, regulation, or*
2 *written policy, to assist in the provision of early intervention*
3 *services under this part to infants and toddlers with disabilities.*

4 *(10) A single line of responsibility in a lead agency designated*
5 *or established by the Governor for carrying out all of the*
6 *following:*

7 *(A) The general administration and supervision of programs*
8 *and activities receiving assistance under Section 1433 of Title 20*
9 *of the United States Code, and the monitoring of programs and*
10 *activities used by the state to carry out this part, whether or not*
11 *those programs or activities are receiving assistance made*
12 *available under Section 1433 of Title 20 of the United States*
13 *Code, to ensure that the state complies with this part.*

14 *(B) The identification and coordination of all available*
15 *resources within the state from federal, state, local, and private*
16 *sources.*

17 *(C) The assignment of financial responsibility in accordance*
18 *with paragraph (2) of subsection (a) of Section 1437 of Title 20*
19 *of the United States Code to the appropriate agencies.*

20 *(D) The development of procedures to ensure that services are*
21 *provided to infants and toddlers with disabilities and their*
22 *families under this part in a timely manner pending the*
23 *resolution of any disputes among public agencies or service*
24 *providers.*

25 *(E) The resolution of intra- and interagency disputes.*

26 *(F) The entry into formal interagency agreements that define*
27 *the financial responsibility of each agency for paying for early*
28 *intervention services, consistent with state law, and procedures*
29 *for resolving disputes and that include all additional components*
30 *necessary to ensure meaningful cooperation and coordination.*

31 *(11) A policy pertaining to the contracting or making of other*
32 *arrangements with service providers to provide early*
33 *intervention services in the state, consistent with the provisions*
34 *of this part, including the contents of the application used and*
35 *the conditions of the contract or other arrangements.*

36 *(12) A procedure for securing timely reimbursements of funds*
37 *used under this part in accordance with subsection (a) of Section*
38 *1440 of Title 20 of the United States Code.*

1 (13) *Procedural safeguards with respect to programs under*
2 *this part, as required by Section 1439 of Title 20 of the United*
3 *States Code.*

4 (14) *A system for compiling data requested by the secretary*
5 *under Section 1418 of Title 20 of the United States Code that*
6 *relates to this part.*

7 (15) *A state interagency coordinating council that meets the*
8 *requirements of Section 1441 of Title 20 of the United States*
9 *Code.*

10 (16) *Policies and procedures to ensure that, consistent with*
11 *paragraph (5) of subsection (d) of Section 1436 of Title 20 of the*
12 *United States Code, both of the following:*

13 (A) *To the maximum extent appropriate, that early*
14 *intervention services are provided in natural environments.*

15 (B) *The provision of early intervention services for any infant*
16 *or toddler with a disability occurs in a setting other than a*
17 *natural environment that is most appropriate, as determined by*
18 *the parent and the individualized family service plan team, only*
19 *when early intervention cannot be achieved satisfactorily for the*
20 *infant or toddler in a natural environment.*

21 (b) *In implementing paragraph (9) of subdivision (a), the*
22 *Legislature may adopt a policy that includes making ongoing*
23 *good-faith efforts to recruit and hire appropriately and*
24 *adequately trained personnel to provide early intervention*
25 *services to infants and toddlers with disabilities, including, in a*
26 *geographic area of the state where there is a shortage of such*
27 *personnel, the most qualified individuals available who are*
28 *making satisfactory progress toward completing applicable*
29 *course work necessary to meet the standards described in*
30 *paragraph (9) of subdivision (a).*

31 (c) *The Superintendent shall ensure that there is flexibility to*
32 *serve children three years of age until entrance into elementary*
33 *school as described in Section 1433 of Title 20 of the United*
34 *States Code, as follows:*

35 (1) *A statewide system described in Section 1433 of Title 20 of*
36 *the United States Code may include a state policy, developed and*
37 *implemented jointly by the lead agency and the department,*
38 *under which parents of pupils with disabilities who are eligible*
39 *for services under Section 1419 of Title 20 of the United States*
40 *Code and previously received services under this part, may*

1 choose the continuation of early intervention services, which
2 shall include an educational component that promotes school
3 readiness and incorporates preliteracy, language, and numeracy
4 skills, for those children under this part until those children
5 enter, or are eligible under state law to enter, kindergarten.

6 (2) If a statewide system includes a state policy described in
7 paragraph (1), the statewide system shall ensure all of the
8 following:

9 (A) Parents of children with disabilities served pursuant to
10 this subdivision are provided annual notice that contains both of
11 the following:

12 (i) A description of the rights of the parents to elect to receive
13 services pursuant to this subdivision or under part B.

14 (ii) An explanation of the differences between services
15 provided pursuant to this subdivision and services provided
16 under Subchapter II (commencing with Section 1411) of the
17 federal Individuals with Disabilities Education Act (20 U.S.C.
18 Sec. 1411 et seq.), including all of the following:

19 (I) Types of services and the locations at which the services
20 are provided.

21 (II) Applicable procedural safeguards.

22 (III) Possible costs, including any fees to be charged to
23 families as described in subparagraph (B) of paragraph (4) of
24 Section 1432 of Title 20 of the United States Code, if any, to
25 parents of infants or toddlers with disabilities.

26 (B) Services provided pursuant to this subdivision shall
27 include an educational component that promotes school
28 readiness and incorporates preliteracy, language, and numeracy
29 skills.

30 (C) The state policy shall not affect the right of any child
31 served pursuant to this subdivision to instead receive a free
32 appropriate public education under Subchapter II (commencing
33 with Section 1411) of the federal Individuals with Disabilities
34 Education Act (20 U.S.C. Sec. 1411 et seq.).

35 (D) All early intervention services outlined in the child's
36 individualized family service plan under Section 1436 of Title 20
37 of the United States Code are continued while any eligibility
38 determination is being made for services under this subdivision.

39 (E) The parents of infants or toddlers with disabilities, as
40 defined in paragraph (5) of subsection (a) of Section 1432 of

1 Title 1432 of the United States Code provide informed written
2 consent to the state, before those infants or toddlers reach three
3 years of age, as to whether the parents intend to choose the
4 continuation of early intervention services pursuant to this
5 subdivision for those infants or toddlers.

6 (F) The requirements under paragraph (9) of subsection (a) of
7 Title 20 of the United States Code shall not apply with respect to
8 a child who is receiving services in accordance with this
9 subdivision until not less than 90 days, and at the discretion of
10 the parties to the conference, not more than nine months, before
11 the time the child will no longer receive those services.

12 (G) There will be a referral for evaluation for early
13 intervention services of a child who experiences a substantiated
14 case of trauma due to exposure to family violence as defined in
15 Section 10408 of the federal Family Violence Prevention and
16 Services Act (42 U.S.C. Sec. 10401 et seq.).

17 (3) If a statewide system includes a policy described in
18 paragraph (1), the state shall submit to the Secretary of
19 Education, in the state's report under subparagraph (A) of
20 paragraph (4) of subsection (b) of Section 1437 of Title 20 of the
21 United States Code, a report on the number and percentage of
22 pupils with disabilities who are eligible for services under
23 Section 1419 of Title 20 of the United States Code but whose
24 parents choose for those children to continue to receive early
25 intervention services under this part.

26 (4) If a statewide system includes a state policy described in
27 paragraph (1), the policy shall describe the funds, including an
28 identification as federal, state, or local funds, that will be used to
29 ensure that the option described in paragraph (1) is available to
30 eligible children and families who provide the consent described
31 in subparagraph (E) of paragraph (2), including fees, if any, to
32 be charged to families as described in paragraph (B) of
33 subsection (4) of Section 1432 of Title 20 of the United States
34 Code.

35 (5) (A) If a statewide system includes a policy described in
36 paragraph (1), a state that provides services in accordance with
37 this subdivision to a child with a disability who is eligible for
38 services under Section 1419 of Title 20 of the United States Code
39 shall not be required to provide the child with a free appropriate
40 public education under Subchapter II (commencing with Section

1 1411) of the federal Individuals with Disabilities Education Act
2 (20 U.S.C. Sec. 1411 et seq.) for the period of time in which the
3 child is receiving services under this part.

4 (B) Nothing in this subdivision shall be construed to require a
5 provider of services under this part to provide a child served
6 under this part with a free appropriate public education.

7 SEC. 163. Section 56427 of the Education Code is amended
8 to read:

9 56427. (a) Not less than two million three hundred
10 twenty-four thousand dollars (\$2,324,000) of the federal
11 discretionary funds appropriated to the ~~State Department of~~
12 ~~Education~~ department under the federal Individuals with
13 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) in any
14 fiscal year shall be expended for early-~~education~~ intervention
15 programs for infants with ~~exceptional needs~~ disabilities and their
16 families, until the department determines, and the Legislature
17 concurs, that the funds are no longer needed for that purpose.

18 (b) Programs ineligible to receive funding pursuant to Section
19 56425 or 56432 may receive funding pursuant to subdivision (a).

20 ~~(c) This section shall become operative on July 1, 1998.~~

21 SEC. 164. Section 56428 of the Education Code is amended
22 to read:

23 56428. (a) For the 1985–86 fiscal year, and each fiscal year
24 thereafter, any instructional personnel service unit that was used
25 in the prior fiscal year to provide services to children younger
26 than three years of age shall continue to be used for that purpose.
27 If a special education local plan area becomes ineligible for all or
28 any portion of those instructional personnel service units
29 operated and fundable in the prior fiscal year, the Superintendent
30 of ~~Public Instruction~~ shall allocate those units to another local
31 plan area for the purpose of providing services to children
32 younger than three years of age.

33 (b) In the 1998–99 fiscal year, the instructional personnel
34 service unit rates used to compute state funding under this
35 chapter shall be adjusted to represent the actual, historic inflation
36 adjustment amount funded for each provider of early-~~education~~
37 ~~intervention~~ services under this chapter. To make this
38 adjustment, the ~~superintendent~~ Superintendent shall make the
39 following calculation:

(1) Divide the amount of funding received by the special education local plan area in the 1997–98 fiscal year from property taxes and state aid, after applying the deficit, for early ~~education intervention~~ for ~~individuals with exceptional needs~~ *pupils with disabilities* by the amount the special education local plan area was entitled to receive for the 1997–98 fiscal year for that program.

(2) Multiply the amount determined in paragraph (1) by the instructional personnel service unit rates for the 1997–98 fiscal year used to compute state funding for early ~~education intervention~~ for ~~individuals with exceptional needs~~ *pupils with disabilities* prior to the application of the inflation adjustment for the 1998–99 fiscal year.

(c) For the 1998–99 fiscal year, the department shall transfer an amount from schedule (a) to schedule (b) of Item 6110-161-0001 of Section 2.00 of the Budget Act of 1998, equal to the amount determined by the department, with the approval of the Department of Finance, to be the amount of funding received by the special education local plan area from property taxes in the 1997–98 fiscal year for early ~~education intervention~~ programs for individuals with exceptional needs, multiplied by the inflation factor computed pursuant to Section 42238.1 for the 1998–99 fiscal year and adjusted for the estimated growth in average daily attendance for kindergarten and grades 1 to 12, inclusive, pursuant to the May Revision of the Governor’s Budget for the 1998–99 fiscal year.

SEC. 165. Section 56429 of the Education Code is amended to read:

56429. In order to assure the maximum utilization and coordination of local early ~~education intervention~~ services, eligibility for the receipt of funds pursuant to Section 56425, 56427, 56428, or 56432 is conditioned upon the approval by the ~~superintendent~~ *Superintendent* of a local plan for early ~~education intervention~~ services, which approval shall apply for not less than one, nor more than four, years. The local plan shall identify existing public and private early ~~education intervention~~ services, and shall include an interagency plan for the delivery of early ~~education intervention~~ services in accordance with the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

1 ~~This section shall become operative on July 1, 1998.~~

2 *SEC. 166. Section 56430 of the Education Code is amended*
3 *to read:*

4 56430. (a) ~~Early-education intervention~~ services may be
5 provided by any of the following methods:

6 (1) Directly by a local educational agency.

7 (2) Through an interagency agreement between a local
8 educational agency and another public agency.

9 (3) Through a contract with another public agency pursuant to
10 Section 56369.

11 (4) Through a contract with a certified nonpublic, nonsectarian
12 school, or nonpublic, nonsectarian agency pursuant to Section
13 56366.

14 (5) Through a contract with a nonsectarian hospital in
15 accordance with Section 56361.5.

16 (b) Contracts or agreements with agencies identified in
17 subdivision (a) for ~~early-education intervention~~ services are
18 strongly encouraged when ~~early-education intervention~~ services
19 are currently provided by another agency, and when found to be
20 a cost-effective means of providing the services. The placement
21 of individual infants *or toddlers* under the contract shall not
22 require specific approval by the governing board of the district or
23 the county office.

24 (c) ~~Early-education intervention~~ services provided under this
25 chapter shall be funded pursuant to Sections 56427, 56428, and
26 56432.

27 ~~(d) This section shall become operative on July 1, 1998.~~

28 *SEC. 167. Section 56431 of the Education Code is amended*
29 *to read:*

30 56431. The ~~superintendent~~ *Superintendent* shall develop
31 procedures and criteria to enable a district, special education
32 local plan area, or county office to contract with private nonprofit
33 preschools or child development centers to provide special
34 education and related services to ~~infant and preschool-age~~
35 ~~individuals with exceptional needs~~ *infants and toddlers with*
36 *disabilities*. The criteria shall include minimum standards that the
37 private, nonprofit preschool or center shall be required to meet.

38 *SEC. 168. Section 56432 of the Education Code is amended*
39 *to read:*

56432. (a) For the 1998–99 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to individuals with exceptional needs younger than three years of age at the second principal apportionment of the prior fiscal year, as long as the pupil count of these pupils divided by the number of instructional personnel service units is not less than the following:

(1) For special classes and centers—12, based on the unduplicated pupil count.

(2) For resource specialist programs—24, based on the unduplicated pupil count.

(3) For designated instruction and services—12, based on the unduplicated pupil count, or 39, based on the duplicated pupil count.

(b) A special education local plan area shall be eligible for state funding of instructional personnel service units for services to ~~individuals with exceptional needs~~ *pupils with disabilities* younger than three years of age in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the ~~superintendent~~ *Superintendent*.

(c) The ~~superintendent~~ *Superintendent* shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria that shall include, but not be limited to, the following:

(1) Changes in the total number of pupils younger than three years of age enrolled in special education programs.

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(d) Infant *and toddler* programs in special classes and centers funded pursuant to this item shall be supported by two aides, unless otherwise required by the superintendent.

(e) Infant *and toddler* services in resource specialist programs funded pursuant to this item shall be supported by one aide.

(f) When units are allocated pursuant to this subdivision, the superintendent shall allocate only the least expensive unit appropriate.

(g) Notwithstanding Sections 56211 and 56212, a special education local plan area may apply for, and the ~~superintendent~~ *Superintendent* may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the ~~superintendent~~ *Superintendent* shall give priority to the following factors:

(1) Applications from special education local plan areas for waivers for a period not to exceed three years to specifically maintain or increase the level of special education services necessary to address the special education service requirements of ~~individuals with exceptional needs~~ *pupils with disabilities* residing in sparsely populated districts or attending isolated schools designated in the application.

(A) Sparsely populated districts are school districts that meet one of the following conditions:

(i) A school district or combination of contiguous school districts in which the total enrollment is less than 600 pupils, kindergarten and grades 1 to 12, inclusive, and in which one or more of the school facilities is an isolated school.

(ii) A school district or combination of contiguous school districts in which the total pupil density ratio is less than 15 pupils, kindergarten and grades 1 to 12, inclusive, per square mile and in which one or more of the school facilities is an isolated school.

(B) Isolated schools are schools with enrollments of less than 600 pupils, kindergarten and grades 1 to 12, inclusive, that meet one or more of the following conditions:

(i) The school is located more than 45 minutes average driving time over commonly used and well-traveled roads from the nearest school, including schools in adjacent special education local plan areas, with an enrollment greater than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(ii) The school is separated, by roads that are impassable for extended periods of time due to inclement weather, from the nearest school, including schools in adjacent special education local plan areas, with an enrollment greater than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(iii) The school is of a size and location that, when its enrollment is combined with the enrollments of the two largest

1 schools within an average driving time of not more than 30
2 minutes over commonly used and well-traveled roads, including
3 schools in adjacent special education local plan areas, the
4 combined enrollment is less than 600 pupils, kindergarten and
5 grades 1 to 12, inclusive.

6 (iv) The school is the one of normal attendance for a severely
7 disabled individual, as defined in Section 56030.5, or an
8 individual with a low-incidence disability, as defined in Section
9 56026.5, who otherwise would be required to be transported
10 more than 75 minutes, average one-way driving time over
11 commonly used and well-traveled roads, to the nearest
12 appropriate program.

13 (2) The location of licensed children's institutions, foster
14 family homes, residential medical facilities, or similar facilities
15 that serve children younger than three years of age and are within
16 the boundaries of a local plan if 3 percent or more of the local
17 plan's unduplicated pupil count resides in those facilities.

18 (h) By authorizing units pursuant to this section, the
19 ~~superintendent~~ *Superintendent* shall not increase the statewide
20 total number of instructional personnel service units for purposes
21 of state apportionments unless an appropriation specifically for
22 growth in the number of instructional personnel service units is
23 made in the annual Budget Act or other legislation. If that growth
24 appropriation is made, units authorized by the ~~superintendent~~
25 *Superintendent* pursuant to this section are subject to the
26 restrictions that the units shall be funded only by that growth
27 appropriation and no other funds may be apportioned for the
28 units.

29 (i) The ~~superintendent~~ *Superintendent* shall monitor the use of
30 instructional personnel service units retained or authorized by the
31 granting of waivers pursuant to subdivision (h) to ensure that the
32 instructional personnel service units are used in a manner wholly
33 consistent with the basis for the waiver request.

34 (j) ~~This section shall become operative on July 1, 1998.~~

35 *SEC. 169. Section 56435 of the Education Code is amended*
36 *to read:*

37 56435. When a child with ~~exceptional needs~~ *disabilities* will
38 be transferring to a local public school, the program may choose,
39 with the permission of the parent or guardian, to transfer
40 information from the previous year deemed beneficial to the

1 pupil and the teacher, including, but not limited to, development
2 issues, social interaction abilities, health background, and
3 diagnostic ~~assessments~~ *evaluations*, if any, to the public school.

4 *SEC. 170. Section 56440 of the Education Code is amended*
5 *to read:*

6 56440. (a) Each special education local plan area shall
7 submit a plan to the ~~superintendent~~ *Superintendent* by September
8 1, 1987, for providing special education and services to
9 ~~individuals with exceptional needs~~ *pupils with disabilities*, as
10 defined by the State Board of Education, who are between the
11 ages of three and five years, inclusive, and do not require
12 intensive special education and services, but who would be
13 eligible for special education and services under Title II of the
14 Education of the Handicapped Act Amendments of 1986, Public
15 Law 99-457 (20 U.S.C. Secs. 1411, 1412, 1413, and 1419).

16 (b) The ~~superintendent~~ *Superintendent* shall provide for a
17 five-year phase-in of the ~~individuals with exceptional needs~~
18 *pupils with disabilities* qualifying for special education and
19 services under Public Law 99-457 who do not require intensive
20 special education and services, through an application process to
21 be developed by the ~~superintendent~~ *Superintendent*.

22 (c) All ~~individuals with exceptional needs~~ *pupils with*
23 *disabilities* between the ages of three and five years, inclusive,
24 identified in subdivision (a) shall be served by the districts and
25 county offices within each special education local plan area by
26 June 30, 1992, to the extent required under federal law and
27 pursuant to the local plan and application approved by the
28 ~~superintendent~~ *Superintendent*.

29 (d) ~~Individuals with exceptional needs~~ *Pupils with disabilities*
30 between the ages of three and five years, inclusive, who are
31 identified by the district, special education local plan area, or
32 county office as requiring special education and services, as
33 defined by the State Board of Education, shall be eligible for
34 special education and services pursuant to this part and shall not
35 be subject to any phase-in plan.

36 (e) In special education local plan areas where ~~individuals~~
37 ~~with exceptional needs~~ *pupils with disabilities* between the ages
38 of three and five, inclusive, who do not require intensive special
39 education and services are expected to have an increased demand
40 on school facilities as a result of projected growth pursuant to

1 this chapter, the special education local plan area director shall
2 submit a written report on the impacted local educational
3 agencies to the State Allocation Board by December 1, 1987. The
4 State Allocation Board shall assess the situation and explore
5 ways of resolving the school facilities impaction situation.

6 (f) The ~~superintendent~~ *Superintendent* shall provide technical
7 assistance to local educational agencies in order to help identify
8 suitable alternative instructional settings to alleviate the school
9 facilities impaction situation. Alternative instructional settings
10 may include, but are not limited to, state preschool programs and
11 the child's home. Nothing in this chapter shall cause the
12 displacement of children currently enrolled in these settings.

13 (g) Special education facilities operated by local educational
14 agencies serving children under this chapter and Chapter 4.4
15 (commencing with Section 56425) shall meet all applicable
16 standards relating to fire, health, sanitation, and building safety,
17 but are not subject to Chapter 3.4 (commencing with Section
18 1596.70), Chapter 3.5 (commencing with Section 1596.90), or
19 Chapter 3.6 (commencing with Section 1597.30) of Division 2 of
20 the Health and Safety Code.

21 (h) This chapter applies to all ~~individuals with exceptional~~
22 ~~needs~~ *pupils with disabilities* between the ages of three and five
23 years, inclusive.

24 *SEC. 171. Section 56440.1 is added to the Education Code, to*
25 *read:*

26 *56440.1. (a) A statewide system described in Section 1433 of*
27 *Title 20 of the United States Code shall provide, at a minimum,*
28 *for each infant or toddler with a disability, and the infant's or*
29 *toddler's family, to receive all of the following:*

30 *(1) A multidisciplinary assessment of the unique strengths and*
31 *needs of the infant or toddler and the identification of services*
32 *appropriate to meet those needs.*

33 *(2) A family directed assessment of the resources, priorities,*
34 *and concerns of the family and the identification of the supports*
35 *and services necessary to enhance the family's capacity to meet*
36 *the developmental needs of the infant or toddler.*

37 *(3) A written individualized family service plan developed by a*
38 *multidisciplinary team, including the parents, as required by*
39 *subdivision (e), including a description of the appropriate*
40 *transition services for the infant or toddler.*

1 ***(b) The individualized family service plan shall be evaluated***
2 ***once a year and the family shall be provided a review of the plan***
3 ***at six-month intervals, or more often where appropriate based on***
4 ***infant or toddler and family needs.***

5 ***(c) The individualized family service plan shall be developed***
6 ***within a reasonable time after the assessment required by***
7 ***paragraph (1) of subdivision (a) is completed. With the parents'***
8 ***consent, early intervention services may commence prior to the***
9 ***completion of the assessment.***

10 ***(d) The individualized family service plan shall be in writing***
11 ***and contain all of the following:***

12 ***(1) A statement of the infant's or toddler's present levels of***
13 ***physical development, cognitive development, communication***
14 ***development, social or emotional development, and adaptive***
15 ***development, based on objective criteria.***

16 ***(2) A statement of the family's resources, priorities, and***
17 ***concerns relating to enhancing the development of the family's***
18 ***infant or toddler with a disability.***

19 ***(3) A statement of the measurable results or outcomes***
20 ***expected to be achieved for the infant or toddler and the family,***
21 ***including preliteracy and language skills, as developmentally***
22 ***appropriate for the child, and the criteria, procedures, and***
23 ***timelines used to determine the degree to which progress toward***
24 ***achieving the results or outcomes is being made and whether***
25 ***modifications or revisions of the results or outcomes or services***
26 ***are necessary.***

27 ***(4) A statement of specific early intervention services based on***
28 ***peer-reviewed research, to the extent practicable, necessary to***
29 ***meet the unique needs of the infant or toddler and the family,***
30 ***including the frequency, intensity, and method of delivering***
31 ***services.***

32 ***(5) A statement of the natural environments in which early***
33 ***intervention services will appropriately be provided, including a***
34 ***justification of the extent, if any, to which the services will not be***
35 ***provided in a natural environment.***

36 ***(6) The projected dates for initiation of services and the***
37 ***anticipated length, duration, and frequency of the services.***

38 ***(7) The identification of the service coordinator from the***
39 ***profession most immediately relevant to the infant's or toddler's***
40 ***or family's needs, or who is otherwise qualified to carry out all***

1 applicable responsibilities under this part, who will be
2 responsible for the implementation of the plan and coordination
3 with other agencies and persons, including transition services.

4 (8) The steps to be taken to support the transition of the
5 toddler with a disability to preschool or to other appropriate
6 services.

7 (e) The contents of the individualized family service plan shall
8 be fully explained to the parents and informed written consent
9 from the parents shall be obtained prior to the provision of early
10 intervention services described in the plan. If the parents do not
11 provide consent with respect to a particular early intervention
12 service, then only the early intervention services to which
13 consent is obtained shall be provided.

14 SEC. 172. Section 56440.2 is added to the Education Code, to
15 read:

16 56440.2. (a) In order to receive a grant under Section 1433
17 of Title 20 of the United States Code, the Superintendent shall
18 submit an application to the Secretary of Education at the time
19 and in the manner as the Secretary may require. The application
20 shall contain all of the following:

21 (1) A designation of the lead agency that will be responsible
22 for the administration of funds provided under Section 1433 of
23 Title 20 of the United States Code.

24 (2) A certification to the Secretary of Education that the
25 arrangements to establish financial responsibility for services
26 provided under this part pursuant to subsection (b) of Section
27 1440 of Title 20 of the United States Code are current as of the
28 date of submission of the certification.

29 (3) Information demonstrating eligibility of California under
30 Section 1434 of Title 20 of the United States Code, including all
31 of the following:

32 (A) Information demonstrating to the Secretary's satisfaction
33 that California has in effect the statewide system required by
34 Section 1433 of Title 20 of the United States Code.

35 (B) A description of services to be provided to infants and
36 toddlers with disabilities and their families through the system.

37 (4) If the state provides services to at-risk infants and toddlers
38 through the statewide system, a description of those services.

39 (5) A description of the uses for which funds will be expended
40 in accordance with this part.

1 (6) *A description of California's policies and procedures that*
2 *require the referral for early intervention services under this part*
3 *of a child under three years of age who is either of the following:*

4 (A) *Involved in a substantiated case of child abuse or neglect.*

5 (B) *Identified as affected by illegal substance abuse or*
6 *withdrawal symptoms resulting from prenatal drug exposure.*

7 (7) *A description of the procedure used to ensure that*
8 *resources are made available under this part for all geographic*
9 *areas within California.*

10 (8) *A description of the state's policies and procedures that*
11 *ensure that, prior to the adoption by California of any other*
12 *policy or procedure necessary to meet the requirements of this*
13 *part, there are public hearings, adequate notice of the hearings,*
14 *and an opportunity for comment available to the general public,*
15 *including individuals with disabilities and parents of infants and*
16 *toddlers with disabilities.*

17 (9) *A description of the policies and procedures to be used to*
18 *accomplish all of the following:*

19 (A) *To ensure a smooth transition for toddlers receiving early*
20 *intervention services under this part, and children receiving*
21 *those services under subsection (c) of Section 1435 of Title 20 of*
22 *the United States Code, to preschool, school, other appropriate*
23 *services, or exiting the program, including a description of how*
24 *the families of those toddlers and children will be included in the*
25 *transition plans required by subparagraph (C). The lead agency*
26 *designated or established under paragraph (10) of subsection (a)*
27 *of Section 1435 of Title 20 of the United States Code shall do all*
28 *of the following:*

29 (i) *Notify the local educational agency for the area in which*
30 *the child resides that the child will shortly reach the age of*
31 *eligibility for preschool services under Subchapter II*
32 *(commencing with Section 1411) of the federal Individuals with*
33 *Disabilities Education Act (20 U.S.C. Sec. 1411 et seq.), as*
34 *determined in accordance with state law.*

35 (ii) *In the case of a child who may be eligible for those*
36 *preschool services under Subchapter II (commencing with*
37 *Section 1411) of the federal Individuals with Disabilities*
38 *Education Act (20 U.S.C. Sec. 1411 et seq.), with the approval of*
39 *the family of the child, convene a conference among the lead*
40 *agency, the family, and the local educational agency not less*

1 *than 90 days, and at the discretion of all parties, not more than*
2 *nine months, before the child is eligible for the preschool*
3 *services, to discuss the services that the child may receive.*

4 *(iii) In the case of a child who may not be eligible for those*
5 *preschool services under Subchapter II (commencing with*
6 *Section 1411) of the federal Individuals with Disabilities*
7 *Education Act (20 U.S.C. Sec. 1411 et seq.), with the approval of*
8 *the family, make reasonable efforts to convene a conference*
9 *among the lead agency, the family, and providers of other*
10 *appropriate services for children who are not eligible for*
11 *preschool services under Subchapter II (commencing with*
12 *Section 1411) of the federal Individuals with Disabilities*
13 *Education Act (20 U.S.C. Sec. 1411 et seq.), to discuss the*
14 *appropriate services that the child may receive.*

15 *(B) To review the child's program options for the period from*
16 *the child's third birthday through the remainder of the school*
17 *year.*

18 *(C) To establish a transition plan, including, as appropriate,*
19 *steps to exit from the program.*

20 *(10) A description of the state's efforts to promote*
21 *collaboration among Head Start programs under Section 9840a*
22 *of Title 42 of the United States Code and early education, child*
23 *care programs, and services under Subchapter III (commencing*
24 *with Section 1431) of the federal Individuals with Disabilities*
25 *Education Act (20 U.S.C. Sec. 1400 et seq.).*

26 *(11) All other information and assurances as the Secretary of*
27 *Education may require.*

28 *(b) The application described in subdivision (a) shall do all of*
29 *the following:*

30 *(1) Provide satisfactory assurance that federal funds made*
31 *available under Section 1443 of Title 20 of the United States*
32 *Code to the state will be expended in accordance with*
33 *Subchapter III (commencing with Section 1431) of the federal*
34 *Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400*
35 *et seq.).*

36 *(2) Contain an assurance that the state will comply with the*
37 *requirements of Section 1440 of Title 20 of the United States*
38 *Code.*

39 *(3) Provide satisfactory assurance that the control of funds*
40 *provided under Section 1443 of Title 20 of the United States*

Code, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and that a public agency will administer the funds and property.

(4) Provide for both of the following:

(A) Making the reports in the form and containing the information as the Secretary of Education may require to carry out the Secretary's functions under Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(B) Keeping the reports and affording the access to the reports as the Secretary of Education may find necessary to ensure the correctness and verification of those reports and proper disbursement of federal funds under Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(5) Provide satisfactory assurance that federal funds made available under Section 1443 of Title 20 of the United States Code to the state will not be commingled with state funds, and that these federal funds will be used so as to supplement the level of state and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those state and local funds.

(6) Provide satisfactory assurance that the fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, federal funds paid under Section 1443 of Title 20 of the United States Code to the state.

(7) Provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the state, in the planning and implementation of all the requirements of Subchapter III (commencing with Section 1431) of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(8) Contain all other information and assurances as the Secretary of Education may require by regulation.

1 (c) *An application submitted by the state in accordance with*
2 *this section may remain in effect until the state submits to the*
3 *Secretary of Education any modifications that the Superintendent*
4 *determines necessary. This section shall apply to a modification*
5 *of an application to the same extent and in the same manner as*
6 *this section applies to the original application.*

7 SEC. 173. *Section 56440.3 is added to the Education Code, to*
8 *read:*

9 56440.3. *In addition to using funds provided under Section*
10 *1433 of Title 20 of the United States Code to maintain and*
11 *implement the statewide system required by that section, the state*
12 *may use the funds for all of the following:*

13 (1) *For direct early intervention services for infants and*
14 *toddlers with disabilities, and their families, under Subchapter*
15 *III (commencing with Section 1431) of the federal Individuals*
16 *with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) that*
17 *are not otherwise funded through other public or private sources.*

18 (2) *To expand and improve on services for infants and*
19 *toddlers and their families under Subchapter III (commencing*
20 *with Section 1431) of the federal Individuals with Disabilities*
21 *Education Act (20 U.S.C. Sec. 1400 et seq.) that are otherwise*
22 *available.*

23 (3) *To provide a free appropriate public education, in*
24 *accordance with Subchapter II (commencing with Section 1431)*
25 *of the federal Individuals with Disabilities Education Act (20*
26 *U.S.C. Sec. 1400 et seq.), to children with disabilities from their*
27 *third birthday to the beginning of the following school year.*

28 (4) *With the written consent of the parents, to continue to*
29 *provide early intervention services under Subchapter II*
30 *(commencing with Sec. 1431 of the federal Individuals with*
31 *Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) to*
32 *children with disabilities from their third birthday until those*
33 *children enter, or are eligible under state law to enter,*
34 *kindergarten, in lieu of a free appropriate public education*
35 *provided in accordance with Subchapter II (commencing with*
36 *Section 1411) of the federal Individuals with Disabilities*
37 *Education Act (20 U.S.C. Sec. 1400 et seq.).*

38 (5) *If the state does not provide services for at-risk infants and*
39 *toddlers under paragraph (4) of subsection (a) of Section 1437 of*
40 *Title 20 of the United States Code, to strengthen the statewide*

1 system by initiating, expanding, or improving collaborative
2 efforts related to at-risk infants and toddlers, including
3 establishing linkages with appropriate public or private
4 community-based organizations, services, and personnel for all
5 of the following purposes:

6 (A) Identifying and evaluating at-risk infants and toddlers.

7 (B) Making referrals of the infants and toddlers identified and
8 evaluated under subparagraph (A).

9 (C) Conducting periodic followup on each referral to
10 determine if the status of the infant or toddler involved has
11 changed with respect to the eligibility of the infant or toddler for
12 services under Subchapter III (commencing with Section 1431) of
13 the federal Individuals with Disabilities Education Act (20 U.S.C.
14 Sec. 1400 et seq.).

15 SEC. 174. Section 56440.4 is added to the Education Code, to
16 read:

17 56440.4. (a) The procedural safeguards required to be
18 included in a statewide system under paragraph (13) of
19 subsection (a) of Section 1435 of Title 20 of the United States
20 Code shall provide, at a minimum, the following:

21 (1) The timely administrative resolution of complaints by
22 parents. A party aggrieved by the findings and decision
23 regarding an administrative complaint shall have the right to
24 bring a civil action with respect to the complaint in any state
25 court of competent jurisdiction or in a district court of the United
26 States without regard to the amount in controversy. In any action
27 brought under this paragraph, the court shall receive the records
28 of the administrative proceedings, shall hear additional evidence
29 at the request of a party, and, basing its decision on the
30 preponderance of the evidence, shall grant such relief as the
31 court determines is appropriate.

32 (2) The right to confidentiality of personally identifiable
33 information, including the right of parents to written notice of
34 and written consent to the exchange of such information among
35 agencies consistent with federal and state law.

36 (3) The right of the parents to determine whether they, their
37 infant or toddler, or other family members will accept or decline
38 any early intervention service under this part in accordance with
39 state law without jeopardizing other early intervention services
40 under this part.

1 (4) *The opportunity for parents to examine records relating to*
2 *assessment, screening, eligibility determinations, and the*
3 *development and implementation of the individualized family*
4 *service plan.*

5 (5) *Procedures to protect the rights of the infant or toddler*
6 *whenever the parents of the infant or toddler are not known or*
7 *cannot be found or the infant or toddler is a ward of the court,*
8 *including the assignment of an individual, who may not be an*
9 *employee of the State Board of Education, or other state agency,*
10 *and who may not be any person, or any employee of a person,*
11 *providing early intervention services to the infant or toddler or*
12 *any family member of the infant or toddler, to act as a surrogate*
13 *for the parents.*

14 (6) *Written prior notice to the parents of the infant or toddler*
15 *with a disability whenever the state agency or service provider*
16 *proposes to initiate or change, or refuses to initiate or change,*
17 *the identification, evaluation, or placement of the infant or*
18 *toddler with a disability, or the provision of appropriate early*
19 *intervention services to the infant or toddler.*

20 (7) *Procedures designed to ensure that the notice required by*
21 *paragraph (6) fully informs the parents, in the parents' native*
22 *language, unless it clearly is not feasible to do so, of all*
23 *procedures available pursuant to this section.*

24 (8) *The right of parents to use mediation in accordance with*
25 *Section 1415 of Title 20 of the United States Code, except that*
26 *both of the following are applicable:*

27 (A) *Any reference in the section to a California educational*
28 *agency shall be considered to be a reference to a state's lead*
29 *agency established or designated under paragraph (10) of*
30 *subsection (a) of Section 1435 of Title 20 of the United States*
31 *Code.*

32 (B) *Any reference in the section to a local educational agency*
33 *shall be considered to be a reference to a local service provider*
34 *or the state's lead agency under this part, as the case may be.*

35 (C) *Any reference in the section to the provision of a free*
36 *appropriate public education to pupils or children with*
37 *disabilities shall be considered to be a reference to the provision*
38 *of appropriate early intervention services to infants and toddlers*
39 *with disabilities.*

1 **(b)** *During the pendency of any proceeding or action involving*
2 *a complaint by the parents of an infant or toddler with a*
3 *disability, unless the state agency and the parents otherwise*
4 *agree, the infant or toddler shall continue to receive the*
5 *appropriate early intervention services currently being provided*
6 *or, if applying for initial services, shall receive the services not in*
7 *dispute.*

8 **SEC. 175.** *Section 56440.5 is added to the Education Code, to*
9 *read:*

10 **56440.5.** *(a) Funds provided under Section 1443 of Title 20*
11 *of the United States Code may not be used to satisfy a financial*
12 *commitment for services that would have been paid for from*
13 *another public or private source, including any medical program*
14 *administered by the Secretary of Defense, but for the enactment*
15 *of Subchapter III (commencing with Section 1431) of the federal*
16 *Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400*
17 *et seq.), except that whenever considered necessary to prevent a*
18 *delay in the receipt of appropriate early intervention services by*
19 *an infant, toddler, or family in a timely fashion, funds provided*
20 *under Section 1443 of Title 20 of the United States Code may be*
21 *used to pay the provider of services pending reimbursement from*
22 *the agency that has ultimate responsibility for the payment.*

23 **(b) (1) (A)** *The Governor or his or her designee shall ensure*
24 *that an interagency agreement or other mechanism for*
25 *interagency coordination is in effect between each public agency*
26 *and the designated lead agency, in order to ensure both of the*
27 *following:*

28 **(i)** *The provision of, and financial responsibility for, services*
29 *provided under this part.*

30 **(ii)** *The services are consistent with the requirements of*
31 *Section 1435 of Title 20 of the United States Code and the state's*
32 *application pursuant to Section 1437 of Title 20 of the United*
33 *States Code, including the provision of services during the*
34 *pendency of any dispute.*

35 **(B)** *The Governor or his or her designee shall ensure that the*
36 *terms and conditions of the agreement or mechanism are*
37 *consistent with the terms and conditions of the state's agreement*
38 *or mechanism under paragraph (12) of subsection (a) of Section*
39 *1412 of Title 20 of the United States Code, where appropriate.*

1 (2) (A) If a public agency other than an educational agency
2 fails to provide or pay for the services pursuant to an agreement
3 required under paragraph (1), the local educational agency or
4 state agency, as determined by the Governor or his or her
5 designee, shall provide or pay for the provision of those services
6 to the child.

7 (B) The local educational agency or state agency is authorized
8 to claim reimbursement for the services from the public agency
9 that failed to provide or pay for the services, and the public
10 agency shall reimburse the local educational agency or state
11 agency pursuant to the terms of the interagency agreement or
12 other mechanism required under paragraph (1).

13 (3) The requirements of paragraph (1) may be met through
14 any of the following:

15 (A) Statute or regulation.

16 (B) Signed agreements between respective agency officials
17 that clearly identify the responsibilities of each agency relating
18 to the provision of services.

19 (C) Other appropriate written methods as determined by the
20 Governor or his or her designee and approved by the secretary
21 through the review and approval of the state's application
22 pursuant to Section 1437 of Title 20 of the United States Code.

23 (c) Nothing in this part shall be construed to permit the state
24 to reduce medical or other assistance available or to alter
25 eligibility under Titles V and XIX of the Social Security Act
26 (Subchapter V (commencing with Section 701) and Subchapter
27 XIX (commencing with Section 1396) of Chapter 7 of Title 42 of
28 the United States Code) relating to medicaid for infants or
29 toddlers with disabilities within the state.

30 SEC. 176. Section 56440.6 is added to the Education Code, to
31 read:

32 56440.6. (a) (1) The Superintendent shall establish a state
33 interagency coordinating council.

34 (2) The council shall be appointed by the Governor or his or
35 her designee. In making appointments to the council, the
36 Governor or his or her designee shall ensure that the
37 membership of the council reasonably represents the population
38 of the state.

39 (3) The Governor or his or her designee shall designate a
40 member of the council to serve as the chairperson of the council,

1 *or shall require the council to so designate such a member. Any*
2 *member of the council who is a representative of the lead agency*
3 *designated under paragraph (10) of subsection (a) of Section*
4 *1435 of Title 20 of the United States Code may not serve as the*
5 *chairperson of the council.*

6 *(b) (1) The council shall be composed as follows:*

7 *(A) Not less than 20 percent of the members shall be parents*
8 *of infants or toddlers with disabilities or pupils with disabilities*
9 *aged 12 or younger, with knowledge of, or experience with,*
10 *programs for infants and toddlers with disabilities. Not less than*
11 *one member shall be a parent of an infant or toddler with a*
12 *disability or a child with a disability six years of age or younger.*

13 *(B) Not less than 20 percent of the members shall be public or*
14 *private providers of early intervention services.*

15 *(C) Not less than one member shall be from the Legislature.*

16 *(D) Not less than one member shall be involved in personnel*
17 *preparation.*

18 *(E) Not less than one member shall be from each of the state*
19 *agencies involved in the provision of, or payment for, early*
20 *intervention services to infants and toddlers with disabilities and*
21 *their families and shall have sufficient authority to engage in*
22 *policy planning and implementation on behalf of those agencies.*

23 *(F) Not less than one member shall be from the state*
24 *educational agency responsible for preschool services to*
25 *children with disabilities and shall have sufficient authority to*
26 *engage in policy planning and implementation on behalf of that*
27 *agency.*

28 *(G) Not less than one member shall be from the agency*
29 *responsible for the state medicaid program.*

30 *(H) Not less than one member shall be a representative from a*
31 *Head Start agency or program in the state.*

32 *(I) Not less than one member shall be a representative from a*
33 *state agency responsible for child care.*

34 *(J) Not less than one member shall be from the agency*
35 *responsible for the state regulation of health insurance.*

36 *(K) Not less than one member shall be a representative*
37 *designated by an entity, selected by the Governor or his or her*
38 *designee, that coordinates education of homeless children and*
39 *youth.*

1 (L) Not less than one member shall be a representative from
2 the state child welfare agency responsible for foster care.

3 (M) Not less than one member shall be a representative from
4 the state agency responsible for children's mental health.

5 (2) The council may include other members selected by the
6 Governor or his or her designee, including a representative from
7 the Bureau of Indian Affairs (BIA), or where there is no
8 BIA-operated or BIA-funded school, from the Indian Health
9 Service or the tribe or tribal council.

10 (c) The council shall meet, at a minimum, on a quarterly basis,
11 and in such places as the council determines necessary. The
12 meetings shall be publicly announced, and, to the extent
13 appropriate, open and accessible to the general public.

14 (d) Subject to the approval of the Governor or his or her
15 designee, the council may prepare and approve a budget using
16 funds under this part to conduct hearings and forums, to
17 reimburse members of the council for reasonable and necessary
18 expenses for attending council meetings and performing council
19 duties, including child care for parent representatives, to pay
20 compensation to a member of the council if the member is not
21 employed or must forfeit wages from other employment when
22 performing official council business, to hire staff, and to obtain
23 the services of professional, technical, and clerical personnel
24 that may be necessary to carry out its functions under this part.

25 (e) (1) The council shall do all of the following:

26 (A) Advise and assist the lead agency designated or
27 established under paragraph (10) of subsection (a) Section 1435
28 of Title 20 of the United States Code in the performance of the
29 responsibilities set forth in that section, particularly the
30 identification of the sources of fiscal and other support for
31 services for early intervention programs, assignment of financial
32 responsibility to the appropriate agency, and the promotion of
33 the interagency agreements.

34 (B) Advise and assist the lead agency in the preparation of
35 applications and amendments thereto.

36 (C) Advise and assist the state educational agency regarding
37 the transition of toddlers with disabilities to preschool and other
38 appropriate services.

39 (D) Prepare and submit an annual report to the Governor and
40 to the Secretary of Education on the status of early intervention

1 *programs for infants and toddlers with disabilities and their*
2 *families operated within the state.*

3 (2) *The council may advise and assist the lead agency and the*
4 *state educational agency regarding the provision of appropriate*
5 *services for children from birth through five years of age. The*
6 *council may advise appropriate agencies in the state with respect*
7 *to the integration of services for infants and toddlers with*
8 *disabilities and at-risk infants and toddlers and their families,*
9 *regardless of whether at-risk infants and toddlers are eligible for*
10 *early intervention services in the state.*

11 (f) *No member of the council shall cast a vote on any matter*
12 *that is likely to provide a direct financial benefit to that member*
13 *or otherwise give the appearance of a conflict of interest under*
14 *state law.*

15 SEC. 177. *Section 56441 of the Education Code is amended*
16 *to read:*

17 56441. The Legislature hereby finds and declares that early
18 education programs for ~~individuals with exceptional needs~~ *pupils*
19 *with disabilities* between the ages of three and five years,
20 inclusive, that provide special education and related services
21 within the typical environment appropriate for young children,
22 and include active parent involvement, may do the following:

23 (a) Significantly reduce the potential impact of any disabling
24 conditions.

25 (b) Produce substantial gains in physical development,
26 cognitive development, language and speech development,
27 psychosocial development, and self-help skills development.

28 (c) Help prevent the development of secondary disabling
29 conditions.

30 (d) Reduce family stresses.

31 (e) Reduce societal dependency and institutionalization.

32 (f) Reduce the need for special class placement in special
33 education programs once the children reach schoolage.

34 (g) Save substantial costs to society and our schools.

35 SEC. 178. *Section 56441.1 of the Education Code is amended*
36 *to read:*

37 56441.1. (a) Services rendered by state and local agencies
38 serving preschool children with ~~exceptional needs~~ *disabilities*
39 and their families shall be provided in coordination with other
40 state and local agencies. Educational agencies offering similar

1 educational services shall coordinate and not duplicate these
2 services. The Superintendent of Public Instruction shall identify
3 similar services by other state and local agencies.

4 (b) As the preschool child approaches the age to enter an
5 elementary school environment, the child's preparation shall be
6 geared toward a readiness for kindergarten and later school
7 success.

8 *SEC. 179. Section 56441.2 of the Education Code is amended*
9 *to read:*

10 56441.2. An early—~~education~~ *intervention* program for
11 ~~individuals with exceptional needs~~ *pupils with disabilities*
12 between the ages of three and five, inclusive, shall include
13 specially designed services to meet the unique needs of preschool
14 children and their families. To meet this purpose, the program
15 focus is on the young child and his or her family and shall
16 include both individual and small group services which shall be
17 available in a variety of typical age-appropriate environments for
18 young children, including the home, and shall include
19 opportunities for active parent involvement.

20 *SEC. 180. Section 56441.3 of the Education Code is amended*
21 *to read:*

22 56441.3. (a) Early—~~education~~ *intervention* services for
23 preschool children may be provided to individuals or small
24 groups and shall include:

25 (1) Observing and monitoring the child's behavior and
26 development in his or her environment.

27 (2) Presenting activities that are developmentally appropriate
28 for the preschool child and are specially designed, based on the
29 child's—~~exceptional needs~~ *disabilities*, to enhance the child's
30 development. Those activities shall be developed to conform
31 with the child's individualized education program and shall be
32 developed so that they do not conflict with his or her medical
33 needs.

34 (3) Interacting and consulting with the family members,
35 regular preschool teachers, and other service providers, as
36 needed, to demonstrate developmentally appropriate activities
37 necessary to implement the child's individualized education
38 program in the appropriate setting pursuant to Section 56441.4
39 and necessary to reinforce the expansion of his or her skills in
40 order to promote the child's educational development. These

1 interactions and consultations may include family involvement
2 activities.

3 (4) Assisting parents to seek and coordinate other services in
4 their community that may be provided to their child by various
5 agencies.

6 (5) Providing opportunities for young children to participate in
7 play and exploration activities, to develop self-esteem, and to
8 develop preacademic skills.

9 (6) Providing access to various developmentally appropriate
10 equipment and specialized materials.

11 (7) Providing related services as defined in Section 300.13 of
12 Title 34 of the Code of Federal Regulations, that include parent
13 counseling and training to help parents understand the special
14 needs of their children and their children's development, as that
15 section read on May 1, 1987.

16 (b) The duration of group services shall not exceed four hours
17 per day unless determined otherwise by the individualized
18 education program team.

19 *SEC. 181. Section 56441.5 of the Education Code is amended*
20 *to read:*

21 56441.5. Appropriate instructional adult-to-child ratios for
22 group services shall be dependent on the needs of the child.
23 However, because of the unique needs of ~~individuals with~~
24 ~~exceptional needs~~ *pupils with disabilities* between the ages of
25 three and five years, inclusive, who require special education and
26 related services, the number of children per instructional adult
27 shall be less than ratios set forth in subsection (b) of Section
28 18204 of Title 5 of the California Code of Regulations, as it read
29 on May 1, 1987, for young children in a regular preschool
30 program. Group services provided to ~~individuals with~~
31 ~~exceptional needs~~ *pupils with disabilities* between the ages of
32 three and five years, inclusive, identified as severely disabled
33 pursuant to Section 56030.5 shall not exceed an instructional
34 adult-to-child ratio of one to five.

35 *SEC. 182. Section 56441.6 of the Education Code is amended*
36 *to read:*

37 56441.6. Early-~~education~~ *intervention* services for preschool
38 children shall be provided through a transdisciplinary team
39 approach of professionals as described in Section 56426.6.
40 Responsibilities of early-~~education~~ *intervention* program staff

1 shall include consultation with regular preschool program
2 providers, consultation with other specialists, ~~assessment~~
3 ~~evaluation~~ services, and direct services.

4 *SEC. 183. Section 56441.7 of the Education Code is amended*
5 *to read:*

6 56441.7. (a) The maximum caseload for a speech and
7 language specialist providing services exclusively to ~~individuals~~
8 ~~with exceptional needs~~ *pupils with disabilities*, between the ages
9 of three and five years, inclusive, as defined in Section 56441.11
10 or 56026, shall not exceed a count of 40.

11 (b) ~~The superintendent~~ *Superintendent* shall issue caseload
12 guidelines or proposed regulations to local educational agencies
13 for ~~individuals with exceptional needs~~ *pupils with disabilities*
14 between the ages of three and five years, inclusive, ~~by January 1,~~
15 ~~1988.~~

16 *SEC. 184. Section 56441.8 of the Education Code is amended*
17 *to read:*

18 56441.8. Early ~~education~~ *intervention* services for
19 preschoolers may be provided by any of the following methods:

20 (a) Directly by a local educational agency.

21 (b) Through an interagency agreement between a local
22 educational agency and another public agency.

23 (c) Through a contract with another public agency pursuant to
24 Section 56369.

25 (d) Through a contract with a certified nonpublic, nonsectarian
26 school; or nonpublic, nonsectarian agency pursuant to Section
27 56366.

28 (e) Through a contract with a nonsectarian hospital in
29 accordance with Section 56361.5.

30 *SEC. 185. Section 56441.13 of the Education Code is*
31 *amended to read:*

32 56441.13. ~~The superintendent~~ *Superintendent* shall provide
33 training and technical assistance for the implementation of early
34 ~~education~~ *intervention* programs for preschool children with
35 ~~exceptional needs~~ *disabilities*, and shall develop:

36 (a) Methods and models for modifications to the regular
37 program prior to referral.

38 (b) Guidelines for program providers.

39 (c) Curriculum and content for programs.

40 (d) Personnel standards for program providers.

1 (e) A plan to meet the unique needs of preschool children who
2 require special education services and who are limited-English
3 proficient and of diverse cultural backgrounds.

4 *SEC. 186. Section 56441.14 of the Education Code is*
5 *amended to read:*

6 56441.14. Criteria and options for meeting the special
7 education transportation needs of ~~individuals with exceptional~~
8 ~~needs~~ *pupils with disabilities* between the ages of three and five,
9 inclusive, shall be included in the local transportation policy
10 required pursuant to paragraph (5) of subdivision (b) of Section
11 56195.8.

12 *SEC. 187. Section 56442 of the Education Code is amended*
13 *to read:*

14 56442. The ~~superintendent~~ *Superintendent* shall ensure that
15 state preschool programs and programs for ~~individuals with~~
16 ~~exceptional needs~~ *pupils with disabilities* between the ages of
17 three and five years, inclusive, provided pursuant to this part, are
18 coordinated at the state and local levels.

19 *SEC. 188. Section 56443 of the Education Code is amended*
20 *to read:*

21 56443. (a) The ~~State Department of Education~~ *department*
22 shall amend its interagency agreement with the Administration
23 for Children, Youth, and Families, Region IX, Head Start, United
24 States Department of Health and Human Services, to permit a
25 district, special education local plan area, or county office to
26 contract with a Head Start program for special education and
27 services for ~~individuals with exceptional needs~~ *pupils with*
28 *disabilities* between the ages of three and five years pursuant to
29 this part.

30 (b) Apportionments allocated to Head Start programs for
31 special education and services to ~~individuals with exceptional~~
32 ~~needs~~ *pupils with disabilities* between the ages of three and five
33 years shall supplement and not supplant funds for which the
34 Head Start programs are eligible, or are already receiving, from
35 other funding sources.

36 *SEC. 189. Section 56445 of the Education Code is amended*
37 *to read:*

38 56445. (a) Prior to transitioning ~~an individual with~~
39 ~~exceptional needs~~ *a pupil with a disability* from a preschool
40 program to kindergarten, or first grade as the case may be, an

1 appropriate ~~reassessment~~ *reevaluation* of the ~~individual pupil~~
2 shall be conducted pursuant to Article 2 (commencing with
3 Section 56320) of Chapter 4 to determine if the ~~individual pupil~~
4 is still in need of special education and services.

5 (b) It is the intent of the Legislature that gains made in the
6 special education program for individuals who received special
7 education and services, in accordance with this chapter, are not
8 lost by too rapid a removal of individualized programs and
9 supports for these ~~individuals~~ *pupils*.

10 (c) As part of the transitioning process, a means of monitoring
11 continued success of the ~~child~~ *pupil* shall be identified by the
12 individualized education program team for those children of
13 kindergarten or first grade equivalency who are determined to be
14 eligible for less intensive special education programs.

15 (d) As part of the exit process from special education, the
16 present performance levels and learning style shall be noted by
17 the individualized education program team. This information
18 shall be made available to the assigned regular education teacher
19 upon the ~~child's~~ *pupil's* enrollment in kindergarten or first grade
20 as the case may be.

21 *SEC. 190. Section 56447.1 of the Education Code is amended*
22 *to read:*

23 56447.1. (a) Nothing in this chapter shall be construed to
24 limit the responsibility of noneducational public agencies in the
25 State of California from providing or paying for some or all of
26 the costs of a free appropriate public education for ~~individuals~~
27 ~~with exceptional needs~~ *pupils with disabilities* between the ages
28 of three and five years, inclusive.

29 (b) Nothing in this chapter shall be construed to permit a
30 noneducational public agency to reduce medical and other
31 assistance available or to alter eligibility under Titles V and XIX
32 of the Social Security Act (Subchapter V (commencing with
33 Section 701) and Subchapter XIX (commencing with Section
34 1396) of Chapter 7 of Title 42 of the United States Code) with
35 respect to the provision of a free appropriate public education for
36 ~~individuals with exceptional needs~~ *pupils with disabilities*
37 between the ages of three and five years, inclusive, within the
38 State of California.

39 *SEC. 191. Section 56449 of the Education Code is amended*
40 *to read:*

1 56449. When a child between the ages of three and five years
2 with special education needs will be transferring to a local public
3 school, the program may choose, with the permission of the
4 parent or guardian, to transfer information from the previous year
5 deemed beneficial to the pupil and the teacher, including, but not
6 limited to, development issues, social interaction abilities, health
7 background, and diagnostic ~~assessments~~ *evaluations*, if any, to
8 the public school.

9 *SEC. 192. Section 56452 of the Education Code is amended*
10 *to read:*

11 56452. The ~~superintendent~~ *Superintendent* shall ensure that
12 the state annually secures all federal funds available for career
13 and vocational education of ~~individuals with exceptional needs~~
14 *pupils with disabilities*.

15 *SEC. 193. Section 56454 of the Education Code is amended*
16 *to read:*

17 56454. In order to provide districts, special education local
18 plan areas, and county offices with maximum flexibility to secure
19 and utilize all federal funds available to enable those entities to
20 meet the career and vocational needs of ~~individuals with~~
21 ~~exceptional needs~~ *pupils with disabilities* more effectively and
22 efficiently, and to provide maximum federal funding to those
23 agencies for the provision of that education, the superintendent
24 shall do all the following:

25 (a) Provide necessary technical assistance to districts, special
26 education local plan areas, and county offices.

27 (b) Establish procedures for these entities to obtain available
28 federal funds.

29 (c) Apply for necessary waivers of federal statutes and
30 regulations including, but not limited to, those governing federal
31 career and vocational education programs.

32 *SEC. 194. Section 56456 of the Education Code is amended*
33 *to read:*

34 56456. It is the intent of the Legislature that districts, special
35 education local plan areas, and county offices may use any state
36 or local special education funds for approved vocational
37 programs, services, and activities to satisfy the excess cost
38 matching requirements for receipt of federal vocational education
39 funds for ~~individuals with exceptional needs~~ *pupils with*
40 *disabilities*.

1 *SEC. 195. Section 56460 of the Education Code is amended*
2 *to read:*

3 56460. The Legislature finds and declares all of the
4 following:

5 (a) That while the passage of the Education for All
6 Handicapped Children Act of 1975 (Public Law 94-142) and the
7 California Master Plan for Special Education have resulted in
8 improved educational services for ~~individuals with exceptional~~
9 ~~needs~~ *pupils with disabilities*; this has not translated into paid
10 employment opportunities or maximum integration into our
11 heterogeneous communities for ~~individuals with exceptional~~
12 ~~needs~~ *pupils with disabilities*.

13 (b) That there is no formalized process that bridges the gap
14 between the security and structure of school and the complexity
15 of service options and resources available for ~~individuals with~~
16 ~~exceptional needs~~ *pupils with disabilities* in the adult community.

17 (c) That there is insufficient coordination between educators,
18 adult service providers, potential employers, and families and
19 students in order to effectively plan and implement a successful
20 transition for ~~students~~ *pupils* to the adult world of paid
21 employment and social independence.

22 (d) That because of insufficient vocational training throughout
23 the middle and secondary school years, and effective interagency
24 coordination and involvement of potential employers in a
25 planning process, the majority of options available for
26 ~~individuals with exceptional needs~~ *pupils with disabilities* in the
27 adult community are programs that support dependence rather
28 than independence.

29 (e) The goal of transition services is planned movement from
30 secondary education to adult life that provides opportunities
31 which maximize economic and social independence in the least
32 restrictive environment for ~~individuals with exceptional needs~~
33 ~~needs~~ *pupils with disabilities*. Planning for transition from school to
34 postsecondary environments should begin in the school system
35 well before the student leaves the system.

36 *SEC. 196. Section 56461 of the Education Code is amended*
37 *to read:*

38 56461. The ~~superintendent~~ *Superintendent* shall establish the
39 capacity to provide transition services for a broad range of
40 ~~individuals with exceptional needs~~ *pupils with disabilities* such

1 as employment and academic training, strategic planning,
2 interagency coordination, and parent training.

3 *SEC. 197. Section 56462 of the Education Code is amended*
4 *to read:*

5 56462. The transition services shall include, but not be
6 limited to, the following:

7 (a) In-service training programs, resource materials, and
8 handbooks that identify the following:

9 (1) The definition of “transition,” including the major
10 components of an effective school-based transition program.

11 (2) Relevant laws and regulations.

12 (3) The roles of other agencies in the transition process
13 including, but not limited to, the scope of their services,
14 eligibility criteria, and funding.

15 (4) The components of effective transition planning.

16 (5) The role of families in the individualized transition
17 process.

18 (6) Resources and model programs currently available in this
19 state.

20 (b) Development of the role and responsibilities of special
21 education in the transition process, including the following:

22 (1) The provision of work skills training, including those skills
23 that are necessary in order to exhibit competence on the job.

24 (2) The provision of multiple employment options and
25 facilitating job or career choice by providing a variety of
26 vocational experiences.

27 (3) The collection and analysis of data on what happens to
28 pupils once they leave the school system and enter the adult
29 world.

30 (4) The coordination of the transition planning process,
31 including development of necessary interagency agreements and
32 procedures at both state and local levels.

33 (5) The provision of instructional learning strategies that will
34 assist pupils who find learning difficult in acquiring skills that
35 will enable them to obtain diplomas, promote a positive attitude
36 toward secondary and postsecondary education and training, and
37 make a successful transition to postsecondary life.

38 (c) The development and implementation of systematic and
39 longitudinal vocational education curriculum including the
40 following:

1 (1) Instructional strategies that will prepare pupils with severe
2 disabilities to make a successful transition to supported
3 employment and the community.

4 (2) The introduction of vocational and career education
5 curriculum in the elementary grades for those pupils who can
6 benefit from it.

7 (d) Materials, resource manuals, and in-service training
8 programs to support the active participation of families in the
9 planning and implementation of transition-related goals and
10 activities.

11 (e) The development of resources and in-service training that
12 will support the implementation of individualized transition
13 planning for all pupils with ~~exceptional needs~~ disabilities.

14 (f) The development of a network of model demonstration
15 sites that illustrate a wide variety of transition models and
16 implementation strategies.

17 (g) Coordination with other specialized programs that serve
18 students who face barriers to successful transition.

19 (h) A research, evaluation, and dissemination program that
20 will support the major programmatic aspects of transition
21 services. Through a variety of competitive grants, bids, contracts,
22 and other awards specific content areas will be developed in
23 cooperation with a variety of field-based agencies, including
24 local education agencies, special education local plan areas,
25 county offices, institutions of higher education, and in-service
26 training agencies.

27 *SEC. 198. Section 56462.1 is added to the Education Code, to*
28 *read:*

29 *56462.1. An Individualized Education Program (IEP) shall*
30 *include all of the following:*

31 *(a) Appropriate measurable postsecondary goals based upon*
32 *age-appropriate transition assessments related to training,*
33 *education, employment, and, where appropriate, independent*
34 *living skills.*

35 *(b) The transition services, including, among other things,*
36 *courses of study needed to assist the pupil in reaching those*
37 *goals.*

38 *(c) Beginning not later than one year before the pupil reaches*
39 *the age of majority under state law, a statement that the pupil has*
40 *been informed of the pupil's rights under this part, if any, that*

1 *will transfer to the child on reaching the age of majority under*
2 *subsection (m) of Section 1415 of Title 20 of the United States*
3 *Code.*

4 *SEC. 199. Section 56470 of the Education Code is amended*
5 *to read:*

6 56470. The Legislature finds and declares all of the
7 following:

8 (a) That an essential component of transition services
9 developed and supported by the ~~State Department of Education~~
10 *department* is project workability.

11 (b) That the workability program provides instruction and
12 experiences that reinforce core curriculum concepts and skills
13 leading to gainful employment.

14 (c) That since project workability was established by the ~~State~~
15 ~~Department of Education~~ *department* in 1981, substantial
16 numbers of ~~individuals with exceptional needs~~ *pupils with*
17 *disabilities* have obtained full- or part-time employment.

18 (d) That project workability is a true partnership established at
19 the state level through nonfinancial interagency agreements
20 between the State Department of Education, the Department of
21 Employment Development, and the Department of
22 Rehabilitation, and has elevated awareness in the private sector
23 of the employment potential of ~~individuals with exceptional~~
24 ~~needs~~ *pupils with disabilities*, and focuses its efforts in
25 developing careers for these youth, and preventing needless
26 economic and social dependency on state and community
27 agencies and resources.

28 (e) That local education agencies in California establish
29 linkage between agencies, eliminate duplication of effort, and
30 develop precedent-setting employment training practices which
31 should be preserved and advanced to better assure future
32 productive employable citizens.

33 *SEC. 200. Section 56475 of the Education Code is amended*
34 *to read:*

35 56475. (a) The ~~superintendent~~ *Superintendent* and the
36 directors of the State Department of Health Services, the State
37 Department of Mental Health, the State Department of
38 Developmental Services, the State Department of Social
39 Services, the Department of Rehabilitation, the Department of
40 the Youth Authority, and the Employment Development

1 Department shall develop written interagency agreements or
2 adopt joint regulations that include responsibilities, in accordance
3 with paragraph (12) of subsection (a) of Section 1412 of Title 20
4 of the United States Code and Section 300.142 of Title 34 of the
5 Code of Federal Regulations, for the provision of special
6 education and related services to ~~individuals with exceptional~~
7 ~~needs~~ *pupils with disabilities* in the State of California.

8 (b) The ~~superintendent~~ *Superintendent* shall develop
9 interagency agreements with other state and local public
10 agencies, as deemed necessary by the superintendent, to carry out
11 the provisions of state and federal law.

12 (c) (1) Each interagency agreement shall be submitted by the
13 ~~superintendent~~ *Superintendent* to each legislative fiscal
14 committee, education committee, and policy committee,
15 responsible for legislation relating to those ~~individuals with~~
16 ~~exceptional needs~~ *pupils with disabilities* that will be affected by
17 the agreement if it is effective.

18 (2) An interagency agreement shall not be effective sooner
19 than 30 days after it has been submitted to each of the legislative
20 committees specified in paragraph (1).

21 *SEC. 201. Section 56500.1 of the Education Code is repealed.*

22 ~~56500.1. (a) All procedural safeguards under the Individuals~~
23 ~~with Disabilities Education Act (20 U.S.C. Sec. 1400 and~~
24 ~~following) shall be established and maintained by each~~
25 ~~noneducational and educational agency that provides education,~~
26 ~~related services, or both, to children who are individuals with~~
27 ~~exceptional needs.~~

28 ~~(b) At each individualized education program meeting, the~~
29 ~~public education agency responsible for convening the meeting~~
30 ~~shall inform the parent and pupil of the federal and state~~
31 ~~procedural safeguards that were provided in the notice of parent~~
32 ~~rights pursuant to Section 56321.~~

33 *SEC. 202. Section 56500.1 is added to the Education Code, to*
34 *read:*

35 *56500.1. (a) A copy of the procedural safeguards available*
36 *to the parents of a pupil with a disability shall be given to the*
37 *parents only one time a year, except that a copy also shall be*
38 *given to the parents in each of the following circumstances:*

39 *(1) Upon initial referral or parental request for evaluation.*

1 (2) *Upon the first occurrence of the filing of a complaint under*
2 *paragraph (1) of subdivision (b) of Section 56500.2.*

3 (3) *Upon request by a parent.*

4 (b) *A local educational agency may place a current copy of*
5 *the procedural safeguards notice on its Internet Web site if that*
6 *Web site exists.*

7 (c) *The procedural safeguards notice shall include a full*
8 *explanation of the procedural safeguards, written in the native*
9 *language of the parents, unless it clearly is not feasible to do so,*
10 *and written in an easily understandable manner, available under*
11 *this section and under regulations promulgated by the Secretary*
12 *of Education relating to:*

13 (1) *Independent educational evaluation.*

14 (2) *Prior written notice.*

15 (3) *Parental consent.*

16 (4) *Access to educational records.*

17 (5) *The opportunity to present and resolve complaints,*
18 *including all of the following:*

19 (A) *The time period in which to make a complaint.*

20 (B) *The opportunity for the agency to resolve the complaint.*

21 (C) *The availability of mediation.*

22 (6) *The pupil's placement during pendency of due process*
23 *proceedings.*

24 (7) *Procedures for pupils who are subject to placement in an*
25 *interim alternative educational setting.*

26 (8) *Requirements for unilateral placement by parents of pupils*
27 *in private schools at public expense.*

28 (9) *Due process hearings, including requirements for*
29 *disclosure of evaluation results and recommendations.*

30 (10) *State-level appeals.*

31 (11) *Civil actions, including the time period in which to file*
32 *such actions.*

33 (12) *Attorneys' fees.*

34 SEC. 203. *Section 56500.2 of the Education Code is amended*
35 *to read:*

36 56500.2. (a) *A complaint filed with the department regarding*
37 *any alleged violations of the federal Individuals with Disabilities*
38 *Education Act (20 U.S.C. Sec. 1400 et seq.) or provision of this*
39 *part shall be investigated in an expeditious and effective manner*
40 *pursuant to Chapter 5.1 (commencing with Section 4600) of Title*

1 5 of the California Code of Regulations and Sections 300.660 to
2 300.662, inclusive, of Title 34 of the Code of Federal
3 Regulations.

4 *(b) A party may present a complaint as follows:*

5 *(1) With respect to any matter relating to the identification,*
6 *evaluation, or educational placement of the pupil, or the*
7 *provision of a free appropriate public education to the pupil.*

8 *(2) The complaint shall set forth an alleged violation that*
9 *occurred not more than two years before the date the parent or*
10 *public agency knew or should have known about the alleged*
11 *action that forms the basis of the complaint, or, if the state has an*
12 *explicit time limitation for presenting such a complaint under this*
13 *part, in such time as the state law allows, except that the*
14 *exceptions to the timeline described in paragraph (2) of*
15 *subdivision (l) of Section 56505 shall apply to the timeline*
16 *described in this subdivision.*

17 *SEC. 204. Section 56500.3 of the Education Code is amended*
18 *to read:*

19 56500.3. (a) It is the intent of the Legislature that parties to
20 special education disputes be encouraged to seek resolution
21 through mediation prior to filing a request for a due process
22 hearing. It is also the intent of the Legislature that these
23 voluntary prehearing request mediation conferences be an
24 informal process conducted in a nonadversarial atmosphere to
25 resolve issues relating to the identification, ~~assessment~~
26 *evaluation*, or educational placement of the child, or the
27 provision of a free appropriate public education to the child, to
28 the satisfaction of both parties. Therefore, attorneys or other
29 independent contractors used to provide legal advocacy services
30 may not attend or otherwise participate in the prehearing request
31 mediation conferences.

32 (b) This part does not preclude the parent or the public
33 educational agency from being accompanied and advised by
34 nonattorney representatives in the mediation conferences and
35 consulting with an attorney prior to or following a mediation
36 conference. For purposes of this section, “attorney” means an
37 active, practicing member of the State Bar of California or
38 another independent contractor used to provide legal advocacy
39 services, but does not mean a parent of the pupil who is also an
40 attorney.

1 (c) Requesting or participating in a mediation conference is
2 not a prerequisite to requesting a due process hearing.

3 (d) All requests for a mediation conference shall be filed with
4 the superintendent. The party initiating a mediation conference
5 by filing a written request with the superintendent shall provide
6 the other party to the mediation with a copy of the request at the
7 same time the request is filed with the superintendent. The
8 mediation conference shall be conducted by a person
9 knowledgeable in the process of reconciling differences in a
10 nonadversarial manner and under contract with the department
11 pursuant to Section 56504.5. The mediator shall be
12 knowledgeable in the laws and regulations governing special
13 education.

14 (e) The prehearing mediation conference shall be scheduled
15 within 15 days of receipt by the superintendent of the request for
16 mediation. The mediation conference shall be completed within
17 30 days after receipt of the request for mediation unless both
18 parties to the prehearing mediation conference agree to extend
19 the time for completing the mediation. Pursuant to paragraph (3)
20 of subsection (b) of Section 300.506 of Title 34 of the Code of
21 Federal Regulations, and to encourage the use of mediation, the
22 state shall bear the cost of the mediation process, including any
23 meetings described in subsection (d) of Section 300.506 of Title
24 34 of the Code of Federal Regulations. The costs of mediation
25 shall be included in the contract described in Section 56504.5.

26 (f) Based upon the mediation conference, the district
27 superintendent, the county superintendent, or the director of the
28 public educational agency, or his or her designee, may resolve
29 the issue or issues. However, this resolution may not conflict
30 with state or federal law and shall be to the satisfaction of both
31 parties. A copy of the written resolution shall be mailed to each
32 party within 10 days following the mediation conference.

33 (g) *In the case that a resolution is reached to resolve the*
34 *complaint through the mediation process, the parties shall*
35 *execute a legally binding agreement that sets forth such*
36 *resolution and that for which all of the following are applicable:*

37 (1) *The resolution states that all discussions that occurred*
38 *during the mediation process shall be confidential and may not*
39 *be used as evidence in any subsequent due process hearing or*
40 *civil proceeding.*

1
2 (2) The resolution is signed by both the parent and a
3 representative of the agency who has the authority to bind that
4 agency.

5 (3) The resolution is enforceable in any state court of
6 competent jurisdiction or in a district court of the United States.

7 (h) Discussions that occur during the mediation process shall
8 be confidential and may not be used as evidence in any
9 subsequent due process hearing or civil proceeding.

10 (i) If the mediation conference fails to resolve the issues to the
11 satisfaction of all parties, the party who requested the mediation
12 conference has the option of filing for a state-level hearing
13 pursuant to Section 56505. The mediator may assist the parties in
14 specifying any unresolved issues to be included in the hearing
15 request.

16 ~~(h)~~

17 (j) Any mediation conference held pursuant to this section
18 shall be scheduled in a timely manner and shall be held at a time
19 and place reasonably convenient to the parties to the dispute in
20 accordance with paragraph (4) of subsection (b) of Section
21 300.506 of Title 34 of the Code of Federal Regulations.

22 ~~(i)~~

23 (k) The mediation conference shall be conducted in
24 accordance with regulations adopted by the board.

25 ~~(j)~~

26 (l) Notwithstanding any procedure set forth in this chapter, a
27 public educational agency and a parent may, if the party initiating
28 the mediation conference so chooses, meet informally to resolve
29 any issue or issues to the satisfaction of both parties prior to the
30 mediation conference.

31 ~~(k) The procedures and rights contained in this section shall be~~
32 ~~included in the notice of parent rights attached to the pupil's~~
33 ~~assessment plan pursuant to Section 56321.~~

34 SEC. 205. Section 56500.4 of the Education Code is amended
35 to read:

36 56500.4. Pursuant to paragraphs (3) and (4) of subsection (b)
37 of Section 1415 of Title 20 of the United States Code, and in
38 accordance with Section 300.503 of Title 34 of the Code of
39 Federal Regulations, written prior notice shall be given by the
40 public agency to the parents or guardians of an individual with

~~exceptional needs, or to the parents or guardians of a child upon initial referral for assessment.~~ *a child, whenever the local educational agency proposes to initiate or change or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.*

(a) The agency shall have procedures designed to ensure that the notice required by this section is in the native language of the parents, unless it clearly is not feasible to do so.

(b) The notice required by this section shall include all of the following:

(1) A description of the action proposed or refused by the agency.

(2) An explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, evaluation, record, or report the agency used as a basis for the proposed or refused action.

(3) A statement that the parents of a pupil with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained.

(4) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(5) A description of other options considered by the IEP team and the reason why those options were rejected.

(6) A description of the factors that are relevant to the agency's proposal or refusal.

SEC. 206. Section 56501 of the Education Code is amended to read:

56501. (a) (1) The due process hearing procedures prescribed by this chapter extend to the parent or guardian, as defined in Section 56028, a pupil who has been emancipated, and a pupil who is a ward or dependent of the court or for whom no parent or guardian can be identified or located when the hearing officer determines that either the local educational agency has failed to appoint a surrogate parent as required by Section 7579.5 of the Government Code or the surrogate parent appointed by the local educational agency does not meet the criteria set forth in subdivision (f) of Section 7579.5 of the Government Code, and

1 the public education agency involved in any decisions regarding
2 a pupil. *If the parents of the child are not known, the agency*
3 *cannot, after reasonable efforts, locate the parents, or the child is*
4 *a ward or dependent of the court, the responsible agency shall*
5 *assign an individual to act as a surrogate for the parents, which*
6 *surrogate shall not be an employee of the state educational*
7 *agency, the local educational agency, or any other agency that is*
8 *involved in the education or care of the child.*

9 (2) *In the case of a child who is a ward or dependent of the*
10 *court, the surrogate may alternatively be appointed by the judge*
11 *overseeing the child's care provided that the surrogate meets the*
12 *requirements of this paragraph.*

13 (3) *An unaccompanied homeless youth as defined in the*
14 *federal McKinney-Vento Homeless Assistance Act (42 U.S.C.*
15 *Sec. 11434a(6)), the local educational agency shall appoint a*
16 *surrogate in accordance with this paragraph. The State shall*
17 *make reasonable efforts to ensure the assignment of a surrogate*
18 *not more than 30 days after there is a determination by the*
19 *agency that the child needs a surrogate.*~~The~~

20 (4) *The appointment of a surrogate parent after a hearing has*
21 *been requested by the pupil shall not be cause for dismissal of the*
22 *hearing request.* ~~The~~

23 (b) *The parent or guardian and the public education agency*
24 *involved may initiate the due process hearing procedures*
25 *prescribed by this chapter under any of the following*
26 *circumstances:*

27 (1) *There is a proposal to initiate or change the identification,*
28 *assessment, or educational placement of the child or the*
29 *provision of a free, appropriate public education to the child.*

30 (2) *There is a refusal to initiate or change the identification,*
31 ~~assessment~~ *evaluation, or educational placement of the child or*
32 *the provision of a free, appropriate public education to the child.*

33 (3) *The parent or guardian refuses to consent to an* ~~assessment~~
34 *evaluation of the child.*

35 (4) *There is a disagreement between a parent or guardian and*
36 *a district, special education local plan area, or county office*
37 *regarding the availability of a program appropriate for the child,*
38 *including the question of financial responsibility, as specified in*
39 *subsection (b) of Section 300.403 of Title 34 of the Code of*
40 *Federal Regulations.*

~~(b)–~~

(c) The due process hearing rights prescribed by this chapter include, but are not limited to, all the following:

(1) The right to a mediation conference pursuant to Section 56500.3.

(2) The right to request a mediation conference at any point during the hearing process. The mediation process is not to be used to deny or delay a parent's or guardian's right to a due process hearing, or to deny any other rights afforded under this part, or under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). Notwithstanding subdivision (a) of Section 56500.3, attorneys and advocates are permitted to participate in mediation conferences scheduled after the filing of a request for due process hearing.

(3) The right to examine pupil records pursuant to Section 56504. This provision shall not be construed to abrogate the rights prescribed by Chapter 6.5 (commencing with Section 49060) of Part 27.

(4) The right to a fair and impartial administrative hearing at the state level, before a person knowledgeable in the laws governing special education and administrative hearings, under contract with the department, pursuant to Section 56505.

~~(e)–~~

(d) In addition to the rights prescribed by subdivision (b), the parent or guardian has the following rights:

(1) The right to have the pupil who is the subject of the state hearing present at the hearing.

(2) The right to open the state hearing to the public.

SEC. 207. Section 56502 of the Education Code is amended to read:

56502. (a) All requests for a due process hearing shall be filed with the superintendent in accordance with paragraphs (1) and (2) of subsection (c) of Section 300.507 of Title 34 of the Code of Federal Regulations.

(b) The superintendent shall develop a model form to assist parents and guardians in filing a request for due process that is in accordance with paragraph (3) of subsection (c) of Section 300.507 of Title 34 of the Code of Federal Regulations.

~~(c) The party initiating a due process hearing by filing a written request with the superintendent shall provide the other~~

1 party to the hearing with a copy of the request at the same time as
2 the request is filed with the superintendent.

3 ~~(d) The superintendent shall take steps to ensure that within 45~~
4 ~~days after receipt of the written hearing request the hearing is~~
5 ~~immediately commenced and completed, including, any~~
6 ~~mediation requested at any point during the hearing process~~
7 ~~pursuant to paragraph (2) of subdivision (b) of Section 56501,~~
8 ~~and a final administrative decision is rendered, unless a~~
9 ~~continuance has been granted pursuant to Section 56505.~~

10 ~~(e) Notwithstanding any procedure set forth in this chapter, a~~
11 ~~public education agency and a parent or guardian may, if the~~
12 ~~party initiating the hearing so chooses, meet informally to resolve~~
13 ~~any issue or issues relating to the identification, assessment, or~~
14 ~~education and placement of the child, or the provision of a free~~
15 ~~appropriate public education to the child, to the satisfaction of~~
16 ~~both parties prior to the hearing. The informal meeting shall be~~
17 ~~conducted by the district superintendent, county superintendent,~~
18 ~~or director of the public education agency or his or her designee.~~
19 ~~Any designee appointed pursuant to this subdivision shall have~~
20 ~~the authority to resolve the issue or issues.~~

21 ~~(f) Upon receipt by the superintendent of a written request by~~
22 ~~the parent or guardian or public education agency, the~~
23 ~~superintendent or his or her designee or designees shall~~
24 ~~immediately notify, in writing, all parties of the request for the~~
25 ~~hearing and the scheduled date for the hearing. The notice shall~~
26 ~~advise all parties of all their rights relating to procedural~~
27 ~~safeguards. The superintendent or his or her designee shall~~
28 ~~provide both parties with a list of persons and organizations~~
29 ~~within the geographical area that can provide free or reduced cost~~
30 ~~representation or other assistance in preparing for the due process~~
31 ~~hearing. This list shall include a brief description of the~~
32 ~~requirement to qualify for the services. The superintendent or his~~
33 ~~or her designee shall have complete discretion in determining~~
34 ~~which individuals or groups shall be included on the list.~~

35 ~~(c) Either party, or the attorney representing a party, must~~
36 ~~provide a due process complaint notice, which shall remain~~
37 ~~confidential, as follows:~~

38 ~~(1) The notice shall be provided to the other party, in the~~
39 ~~complaint filed under Section 56500.2 and a copy of the notice~~
40 ~~shall be forwarded to the State Board of Education.~~

1 (2) *The notice shall include all of the following:*

2 (A) *The name of the child, the address of the residence of the*
3 *child, or available contact information in the case of a homeless*
4 *child, and the name of the school the child is attending.*

5 (B) *In the case of a homeless child or youth within the*
6 *meaning of the McKinney-Vento Homeless Assistance Act (42*
7 *U.S.C. Sec. 11434a(2)), available contact information for the*
8 *child and the name of the school the child is attending.*

9 (C) *A description of the nature of the problem of the child*
10 *relating to the proposed initiation or change, including facts*
11 *relating to the problem.*

12 (D) *A proposed resolution of the problem to the extent known*
13 *and available to the party at the time.*

14 (d) *A party may not have a due process hearing until the*
15 *party, or the attorney representing the party, files a notice that*
16 *meets the requirements of subdivision (c).*

17 (e) *The due process complaint notice required in this section*
18 *shall be deemed to be sufficient unless the party receiving the*
19 *notice notifies the hearing officer and the other party in writing*
20 *that the receiving party believes the notice has not met the*
21 *requirements of subdivision (c).*

22 (1) *If the local educational agency has not sent a prior written*
23 *notice to the parent regarding the subject matter contained in the*
24 *parent's due process complaint notice, the local educational*
25 *agency shall, within 10 days of receiving the complaint, send to*
26 *the parent a response that shall include all of the following:*

27 (A) *An explanation of why the agency proposed or refused to*
28 *take the action raised in the complaint.*

29 (B) *A description of other options that the IEP team*
30 *considered and the reasons why those options were rejected.*

31 (C) *A description of each evaluation procedure, evaluation,*
32 *record, or report the agency used as the basis for the proposed*
33 *or refused action.*

34 (D) *A description of the factors that are relevant to the*
35 *agency's proposal or refusal.*

36 (2) *A response filed by a local educational agency pursuant to*
37 *paragraph (1) does not preclude such local educational agency*
38 *from asserting that the parent's due process complaint notice*
39 *was insufficient where appropriate.*

1 (3) Except as provided in paragraph (1) of subdivision (e), the
2 noncomplaining party shall, within 10 days of receiving the
3 complaint, send to the complainant a response that specifically
4 addresses the issues raised in the complaint.

5 (f) The party providing a hearing officer notification under
6 subdivision (e) shall provide the notification within 15 days of
7 receiving the complaint.

8 (g) Within five days of receipt of the notification provided
9 under subdivision (f), the hearing officer shall make a
10 determination on the face of the notice of whether the notification
11 meets the requirements of subdivision (c), and shall immediately
12 notify the parties in writing of that determination.

13 (h) A party may amend its due process complaint notice only if
14 either or both of the following are applicable:

15 (1) The other party consents in writing to that amendment and
16 is given the opportunity to resolve the complaint through a
17 meeting held pursuant to subdivision (a) of Section 56502.1.

18 (2) The hearing officer grants permission, except that the
19 hearing officer may only grant that permission at any time not
20 later than five days before a due process hearing occurs.

21 (i) The applicable timeline for a due process hearing under
22 this part shall recommence at the time the party files an amended
23 notice, including the timeline under subdivision (e).

24 SEC. 208. Section 56502.1 is added to the Education Code, to
25 read:

26 56502.1. (a) Prior to the opportunity for an impartial due
27 process hearing, the local educational agency shall convene a
28 meeting with the parents and the relevant member or members of
29 the IEP team who have specific knowledge of the facts identified
30 in the complaint, as follows:

31 (1) The meeting shall be convened within 15 days of receiving
32 notice of the parents' complaint.

33 (2) The meeting shall include a representative of the agency
34 who has decisionmaking authority on behalf of the agency.

35 (3) The meeting may not include an attorney of the local
36 educational agency unless the parent is accompanied by an
37 attorney.

38 (4) The parents of the child shall discuss their complaint, and
39 the facts that form the basis of the complaint, and the local
40 educational agency shall be provided the opportunity to resolve

1 *the complaint, unless the parents and the local educational*
2 *agency agree in writing to waive the meeting, or agree to use the*
3 *mediation process.*

4 *(b) If the local educational agency has not resolved the*
5 *complaint to the satisfaction of the parents within 30 days of the*
6 *receipt of the complaint, the due process hearing may occur, and*
7 *all of the applicable timelines for a due process hearing under*
8 *this part shall commence.*

9 *(c) In the case that a resolution is reached to resolve the*
10 *complaint at a meeting described in subdivision (a), the parties*
11 *shall execute a legally binding agreement that is signed by both*
12 *the parent and a representative of the agency who has the*
13 *authority to bind the agency.*

14 *The agreement shall be enforceable in any state court of*
15 *competent jurisdiction or in a district court of the United States.*

16 *(d) If the parties execute an agreement pursuant to subdivision*
17 *(c), a party may void the agreement within three business days of*
18 *the agreement's execution.*

19 *SEC. 209. Section 56505 of the Education Code is amended*
20 *to read:*

21 *56505. (a) The state hearing shall be conducted in*
22 *accordance with regulations adopted by the board.*

23 *(b) The hearing shall be held at a time and place reasonably*
24 *convenient to the parent or guardian and the pupil.*

25 ~~*(c) The hearing shall be conducted by a person knowledgeable*~~
26 ~~*in the laws and regulations governing special education and*~~
27 ~~*administrative hearings pursuant to Section 56504.5, and who*~~
28 ~~*has satisfactorily completed training pursuant to this subdivision.*~~

29 *(1) The following are applicable to a hearing officer conducting*
30 *a hearing pursuant to this part:*

31 *(A) The hearing officer may not be an employee of the state*
32 *educational agency or the local educational agency involved in*
33 *the education or care of the child.*

34 *(B) The hearing officer may not be a person having a personal*
35 *or professional interest that conflicts with the person's*
36 *objectivity in the hearing.*

37 *(2) The hearing officer shall possess knowledge of, and the*
38 *ability to understand, the provisions of this part, federal and*
39 *state regulations pertaining to this part, and legal interpretations*
40 *of this part by federal and state courts.*

1 (3) *The hearing officer shall possess the knowledge and ability*
2 *to conduct hearings in accordance with appropriate, standard*
3 *legal practice.*

4 (4) *The hearing officer shall possess the knowledge and ability*
5 *to render and write decisions in accordance with appropriate,*
6 *standard legal practice.*

7 The Superintendent shall establish standards for the training of
8 hearing officers, the degree of specialization of the hearing
9 officers, and the quality control mechanisms to be used to ensure
10 that the hearings are fair and the decisions are accurate. A due
11 process hearing may not be conducted by any individual listed in
12 subsection (a) of Section 300.508 of Title 34 of the Code of
13 Federal Regulations. Pursuant to subsection (b) of Section
14 300.508 of the Title 34 of the Code of Federal Regulations, a
15 person who is qualified to conduct a hearing is not an employee
16 of the agency solely because he or she is paid by the agency to
17 serve as a hearing officer. The hearing officer shall encourage the
18 parties to a hearing to consider the option of mediation as an
19 alternative to a hearing.

20 (d) Pursuant to subsection (a) of Section 300.514 of Title 34 of
21 the Code of Federal Regulations, during the pendency of the
22 hearing proceedings, including the actual state-level hearing, or
23 judicial proceeding regarding a due process hearing, the pupil
24 shall remain in his or her present placement, except as provided
25 in Section 300.526 of Title 34 of the Code of Federal
26 Regulations, unless the public agency and the parent or guardian
27 agree otherwise. A pupil applying for initial admission to a
28 public school shall, with the consent of his or her parent or
29 guardian, be placed in the public school program until all
30 proceedings have been completed. As provided in subsection (c)
31 of Section 300.514 of Title 34 of the Code of Federal
32 Regulations, if the decision of a hearing officer in a due process
33 hearing or a state review official in an administrative appeal
34 agrees with the parent or guardian of the pupil that a change of
35 placement is appropriate, that placement shall be treated as an
36 agreement between the state or local agency and the parent or
37 guardian.

38 (e) Any party to the hearing held pursuant to this section shall
39 be afforded the following rights consistent with state and federal
40 statutes and regulations:

1 (1) The right to be accompanied and advised by counsel and
2 by individuals with special knowledge or training relating to the
3 problems of ~~individuals with exceptional needs~~ *pupils with*
4 *disabilities*.

5 (2) The right to present evidence, written arguments, and oral
6 arguments.

7 (3) The right to confront, cross-examine, and compel the
8 attendance of, witnesses.

9 (4) The right to a written, or, at the option of the parents or
10 guardians, electronic verbatim record of the hearing.

11 (5) The right to written, or, at the option of the parent or
12 guardian, electronic findings of fact and decisions. The record of
13 the hearing and the findings of fact and decisions shall be
14 provided at no cost to parents or guardians in accordance with
15 paragraph (2) of subsection (c) of Section 300.509 of Title 34 of
16 the Code of Federal Regulations. The findings and decisions
17 shall be made available to the public after any personally
18 identifiable information has been deleted consistent with the
19 confidentiality requirements of subsection (c) of Section 1417 of
20 Title 20 of the United States Code and shall also be transmitted
21 to the Advisory Commission on Special Education pursuant to
22 paragraph (4) of subsection (h) of Section 1415 of Title 20 of the
23 United States Code.

24 (6) The right to be informed by the other parties to the hearing,
25 at least 10 days prior to the hearing, as to what those parties
26 believe are the issues to be decided at the hearing and their
27 proposed resolution of those issues. Upon the request of a parent
28 who is not represented by an attorney, the agency responsible for
29 conducting hearings shall provide a mediator to assist the parent
30 in identifying the issues and the proposed resolution of the issues.

31 (7) The right to receive from other parties to the hearing, at
32 least five business days prior to the hearing, a copy of all
33 documents and a list of all witnesses and their general area of
34 testimony that the parties intend to present at the hearing.
35 ~~Included in the material to be disclosed to all parties at least five~~
36 ~~business days prior to a hearing shall be all assessments~~
37 ~~completed by that date and recommendations based on the~~
38 ~~assessments that the parties intend to use at the hearing.~~ *Not less*
39 *than five business days prior to a hearing, each party shall*
40 *disclose to all other parties all evaluations completed by that*

1 *date, and recommendations based on the offering party's*
2 *evaluations, that the party intends to use at the hearing. A*
3 *hearing officer may bar any party who fails to comply with this*
4 *subdivision from introducing the relevant evaluation or*
5 *recommendation at the hearing without the consent of the other*
6 *party.*

7 (8) The right, pursuant to paragraph (3) of subsection (a) of
8 Section 300.509 of Title 34 of the Code of Federal Regulations,
9 to prohibit the introduction of any evidence at the hearing that
10 has not been disclosed to that party at least five business days
11 before the hearing.

12 (f) The hearing conducted pursuant to this section shall be
13 completed and a written, reasoned decision, including the reasons
14 for any nonpublic, nonsectarian school placement, the provision
15 of nonpublic, nonsectarian agency services, or the reimbursement
16 for such placement or services, taking into account the
17 requirements of subdivision (a) of Section 56365, shall be mailed
18 to all parties to the hearing within 45 days from the receipt by the
19 Superintendent of the request for a hearing. Either party to the
20 hearing may request the hearing officer to grant an extension.
21 The extension shall be granted upon a showing of good cause.
22 Any extension shall extend the time for rendering a final
23 administrative decision for a period only equal to the length of
24 the extension.

25 (g) Subdivision (f) does not alter the burden of proof required
26 in a due process hearing, or prevent a hearing officer from
27 ordering a compensatory remedy for ~~an individual with~~
28 ~~exceptional needs~~ *a pupil with a disability*.

29 (h) The hearing conducted pursuant to this section shall be the
30 final administrative determination and binding on all parties.

31 (i) In decisions relating to the placement of ~~individuals with~~
32 ~~exceptional needs~~ *a pupil with a disability*, the person conducting
33 the state hearing shall consider cost, in addition to all other
34 factors that are considered.

35 (j) In a hearing conducted pursuant to this section, the hearing
36 officer may not base a decision solely on nonsubstantive
37 procedural errors, unless the hearing officer finds that the
38 nonsubstantive procedural errors resulted in the loss of an
39 educational opportunity to the pupil or interfered with the

1 opportunity of the parent or guardian of the pupil to participate in
2 the formulation process of the individualized education program.

3 (k) This chapter does not preclude a party aggrieved by the
4 findings and decisions in a hearing under this section from
5 exercising the right to appeal the decision to a state court of
6 competent jurisdiction. An aggrieved party may also exercise the
7 right to bring a civil action in a district court of the United States
8 without regard to the amount in controversy, pursuant to Section
9 300.512 of Title 34 of the Code of Federal Regulations. An
10 appeal shall be made within 90 days of receipt of the hearing
11 decision. During the pendency of any administrative or judicial
12 proceeding conducted pursuant to Chapter 5 (commencing with
13 Section 56500), the child involved in the hearing shall remain in
14 his or her present educational placement, unless the public
15 education agency and the parent or guardian of the child agree
16 otherwise. Any action brought under this subdivision shall adhere
17 to the provisions of subsection (b) of Section 300.512 of Title 34
18 of the Code of Federal Regulations.

19 (l) (1) Any request for a due process hearing arising under
20 subdivision (a) of Section 56501 shall be filed within ~~three years~~
21 ~~from the date the party initiating the request knew or had reason~~
22 ~~to know of the facts underlying the basis for the request.~~*two*
23 *years of the date the parent or agency knew or should have*
24 *known about the alleged action that forms the basis of the*
25 *complaint.*

26 (2) *The time period described in paragraph (1) does not apply*
27 *to a parent if the parent was prevented from requesting the*
28 *hearing due to either of the following:*

29 (A) *Specific misrepresentations by the local educational*
30 *agency that it had resolved the problem forming the basis of the*
31 *complaint.*

32 (B) *The local educational agency's withholding of information*
33 *from the parent that was required under this part to be provided*
34 *to the parent.*

35 (m) Pursuant to subsection (c) of Section 300.508 of Title 34
36 of the Code of Federal Regulations, each public education
37 agency shall keep a list of the persons who serve as due process
38 hearing officers, in accordance with Section 56504.5, and the list
39 shall include a statement of the qualifications of each of those
40 persons. The list of hearing officers shall be provided to the

1 public education agencies by the organization or entity under
2 contract with the department to conduct due process hearings.

3 *SEC. 210. Section 56505.1 of the Education Code is amended*
4 *to read:*

5 56505.1. The hearing officer may do any of the following
6 during the hearing:

7 (a) Question a witness on the record prior to any of the parties
8 doing so.

9 (b) With the consent of both parties to the hearing, request that
10 conflicting experts discuss an issue or issues with each other
11 while on the record.

12 (c) Visit the proposed placement site or sites when the
13 physical attributes of the site or sites are at issue.

14 (d) Call a witness to testify at the hearing if all parties to the
15 hearing consent to the witness giving testimony or the hearing is
16 continued for at least five days after the witness is identified and
17 before the witness testifies.

18 (e) Order that an impartial ~~assessment~~ *evaluation*, including an
19 independent educational assessment, of the pupil be conducted
20 for purposes of the hearing and continue the hearing until the
21 ~~assessment~~ *evaluation* has been completed. The cost of any
22 ~~assessment~~ *evaluation* ordered under this subdivision shall be at
23 public expense pursuant to subsection (d) of Section 300.502 of
24 Title 34 of the Code of Federal Regulations and included in the
25 contract between the department and the organization or entity
26 conducting the hearing.

27 (f) Bar introduction of any documents or the testimony of any
28 witnesses not disclosed to the hearing officer at least five
29 business days prior to the hearing and bar introduction of any
30 documents or the testimony of any witnesses at the hearing
31 without the consent of the other party not disclosed to the parties
32 at least five business days prior to the hearing pursuant to
33 paragraph (7) of subdivision (e) of Section 56505.

34 (g) In decisions relating to the provision of related services by
35 other public agencies, the hearing officer may call as witnesses
36 independent medical specialists qualified to present evidence in
37 the area of the pupil's medical disability. The cost for any
38 witness called to testify under this subdivision shall be included
39 in the contract between the department and the organization or
40 entity conducting the hearing.

1 (h) Set a reasonable limit on the length of the hearing after
2 consideration of all of the following:

3 (1) The issues to be heard.

4 (2) The complexity of the facts to be proven.

5 (3) The ability of the parties and their representatives, if any,
6 to present their respective cases.

7 (4) The estimate of the parties as to the time needed to present
8 their respective cases.

9 *SEC. 211. Section 56505.2 of the Education Code is amended*
10 *to read:*

11 56505.2. (a) A hearing officer may not render a decision that
12 results in the placement of ~~an individual with exceptional needs~~ *a*
13 *pupil with a disability* in a nonpublic, nonsectarian school, or that
14 results in a service for ~~an individual with exceptional needs~~ *a*
15 *pupil with a disability* provided by a nonpublic, nonsectarian
16 agency, if the school or agency has not been certified pursuant to
17 Section 56366.1.

18 (b) A hearing officer shall consider Sections 56365, 56366,
19 and 56366.1 during a due process hearing concerning an issue of
20 placement of ~~an individual with exceptional needs~~ *a pupil with a*
21 *disability* in a nonpublic, nonsectarian school, or services for ~~an~~
22 ~~individual with exceptional needs~~ *a pupil with a disability*
23 provided by a nonpublic, nonsectarian agency.

24 (c) *A hearing officer may not render a decision that results in*
25 *the placement of a pupil with a disability in a nonpublic,*
26 *nonsectarian school, or that results in a service for a pupil with*
27 *a disability provided by a nonpublic, nonsectarian agency, unless*
28 *the hearing officer issues a written finding that the district's*
29 *program or program offer has not complied with legal*
30 *requirements.*

31 (d) *A hearing officer may not render a decision that results in*
32 *the reimbursement for the placement of a pupil with a disability*
33 *in a nonpublic, nonsectarian school, or that results in*
34 *reimbursement for a service for a pupil with a disability being*
35 *provided by a nonpublic, nonsectarian agency, unless the*
36 *hearing officer issues a written finding that the district's*
37 *program or program offer did not comply with legal*
38 *requirements during the time period relevant to the*
39 *reimbursement request.*

1 (e) Subdivisions (c) and (d) do not alter the burden of proof
2 required in a due process hearing, or prevent a hearing officer
3 from ordering a compensatory remedy for a pupil with a
4 disability.

5 SEC. 212. Section 56506 of the Education Code is repealed.

6 ~~56506. In addition to the due process hearing rights~~
7 ~~enumerated in subdivision (b) of Section 56501, the following~~
8 ~~due process rights extend to the pupil and the parent:~~

9 ~~(a) Written notice to the parent of his or her rights in language~~
10 ~~easily understood by the general public and in the native~~
11 ~~language of the parent, as defined in Section 300.19 of Title 34~~
12 ~~of the Code of Federal Regulations, or other mode of~~
13 ~~communication used by the parent, unless to do so is clearly not~~
14 ~~feasible. The written notice of rights shall include, but not be~~
15 ~~limited to, those prescribed by Section 56341.~~

16 ~~(b) The right to initiate a referral of a child for special~~
17 ~~education services pursuant to Section 56303.~~

18 ~~(c) The right to obtain an independent educational assessment~~
19 ~~pursuant to subdivision (b) or (c) of Section 56329.~~

20 ~~(d) The right to participate in the development of the~~
21 ~~individualized education program and to be informed of the~~
22 ~~availability under state and federal law of free appropriate public~~
23 ~~education and of all available alternative programs, both public~~
24 ~~and nonpublic.~~

25 ~~(e) Written parental consent pursuant to Section 56321 shall~~
26 ~~be obtained before any assessment of the pupil is conducted,~~
27 ~~unless the public education agency prevails in a due process~~
28 ~~hearing relating to the assessment. In accordance with subsection~~
29 ~~(e) of Section 300.505 of Title 34 of the Code of Federal~~
30 ~~Regulations, informed parental consent need not be obtained in~~
31 ~~the case of a reassessment of the pupil if the local educational~~
32 ~~agency can demonstrate that it has taken reasonable measures to~~
33 ~~obtain consent and the pupil's parent has failed to respond.~~

34 ~~(f) Written parental consent pursuant to Section 56321 shall be~~
35 ~~obtained before the pupil is placed in a special education~~
36 ~~program.~~

37 SEC. 213. Section 56507 of the Education Code is amended
38 to read:

39 56507. (a) If either party to a due process hearing intends to
40 be represented by an attorney in the state hearing, notice of that

1 intent shall be given to the other party at least 10 days prior to the
2 hearing. The failure to provide that notice shall constitute good
3 cause for a continuance.

4 (b) An award of reasonable attorneys' fees to the prevailing
5 parent, guardian, or pupil, as the case may be, may only be made
6 either with the agreement of the parties following the conclusion
7 of the administrative hearing process or by a court of competent
8 jurisdiction pursuant to paragraph (3) of subsection (i) of Section
9 1415 of Title 20 of the United States Code.

10 (c) (1) *The court, in its discretion, may award reasonable*
11 *attorneys' fees as part of the costs to any of the following:*

12 (A) *To a prevailing party who is the parent of a pupil with a*
13 *disability.*

14 (B) *To a prevailing party who is a state educational agency or*
15 *local educational agency against the attorney of a parent who*
16 *files a complaint or subsequent cause of action that is frivolous,*
17 *unreasonable, or without foundation, or against the attorney of a*
18 *parent who continued to litigate after the litigation clearly*
19 *became frivolous, unreasonable, or without foundation.*

20 (C) *To a prevailing state educational agency or local*
21 *educational agency against the attorney of a parent, or against*
22 *the parent, if the parent's complaint or subsequent cause of*
23 *action was presented for any improper purpose, such as to*
24 *harass, to cause unnecessary delay, or to needlessly increase the*
25 *cost of litigation.*

26 (2) *Fees awarded under this paragraph shall be based on*
27 *rates prevailing in the community in which the action or*
28 *proceeding arose for the kind and quality of services furnished.*
29 *No bonus or multiplier may be used in calculating the fees*
30 *awarded under this subdivision.*

31 (3) *Attorneys' fees may not be awarded and related costs may*
32 *not be reimbursed in any action or proceeding under this section*
33 *for services performed subsequent to the time of a written offer of*
34 *settlement to a parent if all of the following are applicable:*

35 (A) *The offer is made within the time prescribed by Rule 68 of*
36 *the Federal Rules of Civil Procedure or, in the case of an*
37 *administrative proceeding, at any time more than 10 days before*
38 *the proceeding begins.*

39 (B) *The offer is not accepted within 10 days.*

1 (C) The court or administrative hearing officer finds that the
2 relief finally obtained by the parents is not more favorable to the
3 parents than the offer of settlement.

4 (4) Attorneys' fees may not be awarded relating to any
5 meeting of the IEP team unless the meeting is convened as a
6 result of an administrative proceeding or judicial action, or, at
7 the discretion of the state, for a mediation described in Section
8 56500.3.

9 (5) A meeting conducted pursuant to Section 56502 shall not
10 be considered to be either a meeting convened as a result of an
11 administrative hearing or judicial action or an administrative
12 hearing or judicial action for purposes of this section.

13 (6) Notwithstanding paragraph (3), an award of attorneys'
14 fees and related costs may be made to a parent who is the
15 prevailing party and who was substantially justified in rejecting
16 the settlement offer.

17 (7) Except as provided in paragraph (8), the court shall
18 reduce, accordingly, the amount of the attorneys' fees awarded
19 under this section whenever the court finds any of the following:

20 (A) That the parent, or the parent's attorney, during the
21 course of the action or proceeding, unreasonably protracted the
22 final resolution of the controversy.

23 (B) That the amount of the attorneys' fees otherwise
24 authorized to be awarded unreasonably exceeds the hourly rate
25 prevailing in the community for similar services by attorneys of
26 reasonably comparable skill, reputation, and experience.

27 (C) That the time spent and legal services furnished were
28 excessive considering the nature of the action or proceeding.

29 (D) That the attorney representing the parent did not provide
30 to the local educational agency the appropriate information in
31 the notice of the complaint described in Section 56502.

32 (8) The provisions of subparagraph (7) shall not apply in any
33 action or proceeding if the court finds that the state or local
34 educational agency unreasonably protracted the final resolution
35 of the action or proceeding or there was a violation of this
36 section.

37 (c) Public education agencies shall not use federal funds
38 distributed under Part B of the Individuals with Disabilities
39 Education Act (20 U.S.C. Sec. 1400 et seq.), or other federal
40 special education funds, for the agency's own legal counsel or

1 other advocacy costs, that may include, but are not limited to, a
2 private attorney or employee of an attorney, legal
3 paraprofessional, or other paid advocate, related to a due process
4 hearing or the appeal of a hearing decision to the courts. Nor
5 shall the funds be used to reimburse parents who prevail and are
6 awarded attorneys' fees, pursuant to subdivision (b), as part of
7 the judgment. Nothing in this subdivision shall preclude public
8 agencies from using these funds for attorney services related to
9 the establishment of policy and programs, or responsibilities,
10 under Part B of the Individuals with Disabilities Education Act
11 (20 U.S.C. Sec. 1400 et seq.) and the program administration of
12 these programs. This subdivision does not apply to attorneys and
13 others hired under contract to conduct administrative hearings
14 pursuant to subdivision (a) of Section 56505.

15 (d) The hearing decision shall indicate the extent to which
16 each party has prevailed on each issue heard and decided,
17 including issues involving other public agencies named as parties
18 to the hearing.

19 *SEC. 214. Section 56515 is added to the Education Code, to*
20 *read:*

21 *56515. (a) (1) (A) School personnel may consider any*
22 *unique circumstances on a case-by-case basis when determining*
23 *whether to order a change in placement for a pupil with a*
24 *disability who violates a code of pupil conduct.*

25 *(B) School personnel may remove a pupil with a disability who*
26 *violates a code of pupil conduct from his or her current*
27 *placement to an appropriate interim alternative educational*
28 *setting or to another setting, or may suspend the pupil, for not*
29 *more than 10 schooldays, to the extent the alternatives are*
30 *applied to pupils without disabilities.*

31 *(C) If school personnel seek to order a change in placement of*
32 *a pupil with a disability that would exceed 10 schooldays and the*
33 *behavior that gave rise to the violation of the code of pupil*
34 *conduct is determined not to be a manifestation of the pupil's*
35 *disability pursuant to subparagraph (E), the relevant disciplinary*
36 *procedures applicable to pupils without disabilities may be*
37 *applied to the pupil in the same manner and for the same*
38 *duration in which the procedures would be applied to pupils*
39 *without disabilities, except as provided in paragraph (1) of*
40 *subsection (a) of Section 1412 of Title 20 of the United States*

1 *Code, although these relevant disciplinary procedures may be*
2 *provided to a pupil with a disability in an interim alternative*
3 *educational setting.*

4 *(D) The following are applicable to a pupil with a disability*
5 *who is removed from the pupil's existing placement under*
6 *subparagraph (G), irrespective of whether the behavior is*
7 *determined to be a manifestation of the pupil's disability or*
8 *under subparagraph (C):*

9 *(i) The pupil shall continue to receive educational services, as*
10 *provided in paragraph (1) of subsection (a) of Section 1412 of*
11 *Title 20 of the United States Code, so as to enable the pupil to*
12 *continue to participate in the general education curriculum,*
13 *although in another setting, and to progress toward meeting the*
14 *goals set out in the pupil's IEP.*

15 *(ii) The pupil shall receive, as appropriate, a functional*
16 *behavioral assessment, behavioral intervention services and*
17 *modifications, that are designed to address the behavior*
18 *violation so that it does not recur.*

19 *(E) (i) Except as provided in subparagraph (B), within 10*
20 *school days of any decision to change the placement of a pupil*
21 *with a disability because of a violation of a code of pupil*
22 *conduct, the local educational agency, the parent, and relevant*
23 *members of the IEP team as determined by the parent and the*
24 *local educational agency shall review all relevant information in*
25 *the pupil's file, including the pupil's IEP, any teacher*
26 *observations, and any relevant information provided by the*
27 *parents to determine if either of the following is applicable:*

28 *(I) The conduct in question was caused by, or had a direct and*
29 *substantial relationship to, the pupil's disability.*

30 *(II) The conduct in question was the direct result of the local*
31 *educational agency's failure to implement the IEP.*

32 *(ii) If the local educational agency, the parent, and relevant*
33 *members of the IEP team determine that either subclause (I) or*
34 *(II) of clause (i) is applicable for the pupil, the conduct shall be*
35 *determined to be a manifestation of the pupil's disability.*

36 *(F) If the local educational agency, the parent, and relevant*
37 *members of the IEP team make the determination that the*
38 *conduct was a manifestation of the pupil's disability, the IEP*
39 *team shall do all of the following:*

1 (i) Conduct a functional behavioral assessment, and
2 implement a behavioral intervention plan for the pupil, provided
3 that the local educational agency had not conducted the
4 assessment prior to the determination before the behavior that
5 resulted in a change in placement described in subparagraph (C)
6 or (G).

7 (ii) In the situation in which a behavioral intervention plan
8 has been developed, review the behavioral intervention plan if
9 the pupil already has a behavioral intervention plan, and modify
10 it, as necessary, to address the behavior.

11 (iii) Except as provided in subparagraph (G), return the pupil
12 to the placement from which the pupil was removed, unless the
13 parent and the local educational agency agree to a change of
14 placement as part of the modification of the behavioral
15 intervention plan.

16 (G) School personnel may remove a pupil to an interim
17 alternative educational setting for not more than 45 schooldays
18 without regard to whether the behavior is determined to be a
19 manifestation of the pupil's disability, in cases in which a pupil
20 does any of the following:

21 (i) Carries or possesses a weapon to or at school, on school
22 premises, or to or at a school function under the jurisdiction of a
23 state or local educational agency.

24 (ii) Knowingly possesses or uses illegal drugs, or sells or
25 solicits the sale of a controlled substance, while at school, on
26 school premises, or at a school function under the jurisdiction of
27 a state or local educational agency.

28 (iii) Has inflicted serious bodily injury upon another person
29 while at school, on school premises, or at a school function
30 under the jurisdiction of a state or local educational agency.

31 (H) Not later than the date on which the decision to take
32 disciplinary action is made, the local educational agency shall
33 notify the parents of that decision, and of all of the procedural
34 safeguards accorded under this section.

35 (2) The interim alternative educational setting in
36 subparagraphs (C) and (G) of paragraph (1) shall be determined
37 by the IEP team.

38 (3) (A) The parent of a pupil with a disability who disagrees
39 with any decision regarding placement, or the determination
40 regarding placement under this subdivision, or a local

1 *educational agency that believes that maintaining the current*
2 *placement of the pupil is substantially likely to result in injury to*
3 *the pupil or to others, may request a hearing.*

4 *(B) (i) A hearing officer shall hear, and make a determination*
5 *regarding, an appeal requested under subparagraph (A).*

6 *(ii) In making the determination under clause (i), the hearing*
7 *officer may order a change in placement of a pupil with a*
8 *disability by ordering either of the following:*

9 *(I) That a pupil with a disability be returned to the placement*
10 *from which the pupil was removed.*

11 *(II) A change in placement of a pupil with a disability to an*
12 *appropriate interim alternative educational setting for not more*
13 *than 45 schooldays if the hearing officer determines that*
14 *maintaining the current placement of the pupil is substantially*
15 *likely to result in injury to the pupil or to others.*

16 *(4) When an appeal under paragraph (3) has been requested*
17 *by either the parent or the local educational agency, both of the*
18 *following are applicable:*

19 *(A) The pupil shall remain in the interim alternative*
20 *educational setting pending the decision of the hearing officer or*
21 *until the expiration of the time period provided for in*
22 *subparagraph (c) of paragraph (1) of subdivision (a), whichever*
23 *occurs first, unless the parent and the state or local educational*
24 *agency agree otherwise.*

25 *(B) The state or local educational agency shall arrange for an*
26 *expedited hearing, which shall occur within 20 schooldays of the*
27 *date the hearing is requested and shall result in a determination*
28 *within 10 schooldays after the hearing.*

29 *(5) (A) A pupil who has not been determined to be eligible for*
30 *special education and related services under this part and who*
31 *has engaged in behavior that violates a code of pupil conduct,*
32 *may assert any of the protections provided for in this part if the*
33 *local educational agency had knowledge, as determined in*
34 *accordance with this paragraph, that the pupil was a pupil with*
35 *a disability before the behavior that precipitated the disciplinary*
36 *action occurred.*

37 *(B) A local educational agency shall be deemed to have*
38 *knowledge that a pupil is a pupil with a disability if, before the*
39 *behavior that precipitated the disciplinary action occurred, any*
40 *of the following is applicable:*

1 (i) *The parent of the pupil has expressed concern in writing to*
2 *supervisory or administrative personnel of the appropriate*
3 *educational agency, or a teacher of the pupil, that the pupil is in*
4 *need of special education and related services.*

5 (ii) *The parent of the pupil has requested an evaluation of the*
6 *pupil pursuant to subparagraph (B) of paragraph (1) of*
7 *subsection (a) of Section 1414 of Title 20 of the United States*
8 *Code.*

9 (iii) *The teacher of the pupil, or other personnel of the local*
10 *educational agency, has expressed specific concerns about a*
11 *pattern of behavior demonstrated by the pupil, directly to the*
12 *director of special education of such agency or to other*
13 *supervisory personnel of the agency.*

14 (C) *A local educational agency shall not be deemed to have*
15 *knowledge that the pupil is a pupil with a disability if the parent*
16 *of the pupil has not allowed an evaluation of the pupil pursuant*
17 *to Section 1414 of Title 20 of the United States Code or has*
18 *refused services under this part or the pupil has been evaluated*
19 *and it was determined that the pupil was not a pupil with a*
20 *disability under this part.*

21 (D) (i) *If a local educational agency does not have knowledge*
22 *that a pupil is a pupil with a disability, in accordance with*
23 *subparagraph (B) or (C), prior to taking disciplinary measures*
24 *against the pupil, the pupil may be subjected to disciplinary*
25 *measures applied to pupils without disabilities who engaged in*
26 *comparable behaviors consistent with clause (ii).*

27 (ii) *If a request is made for an evaluation of a pupil during the*
28 *time period in which the pupil is subjected to disciplinary*
29 *measures under this subdivision, the evaluation shall be*
30 *conducted in an expedited manner. If the pupil is determined to*
31 *be a pupil with a disability, taking into consideration information*
32 *from the evaluation conducted by the agency and information*
33 *provided by the parents, the agency shall provide special*
34 *education and related services in accordance with this part,*
35 *except that, pending the results of the evaluation, the pupil shall*
36 *remain in the educational placement determined by school*
37 *authorities.*

38 (6) (A) *Nothing in this part shall be construed to prohibit an*
39 *agency from reporting a crime committed by a pupil with a*
40 *disability to appropriate authorities or to prevent state law*

1 enforcement and judicial authorities from exercising their
2 responsibilities with regard to the application of federal and
3 state law to crimes committed by a pupil with a disability.

4 (B) An agency reporting a crime committed by a pupil with a
5 disability shall ensure that copies of the special education and
6 disciplinary records of the pupil are transmitted for
7 consideration by the appropriate authorities to whom the agency
8 reports the crime.

9 (7) As used in this subdivision:

10 (A) The term “controlled substance” means a drug or other
11 substance identified under schedule I, II, III, IV, or V in Section
12 202(c) of the Controlled Substances Act (21 U.S.C. Sec. 812(c)).

13 (B) The term “illegal drug” means a controlled substance but
14 does not include a controlled substance that is legally possessed
15 or used under the supervision of a licensed health-care
16 professional or that is legally possessed or used under any other
17 authority under that act or under any other provision of federal
18 law.

19 (C) The term “weapon” has the meaning given the term
20 “dangerous weapon” under paragraph (2) of subsection (g) of
21 Section 930 of Title 18 of the United States Code.

22 (D) The term “serious bodily injury” has the meaning given
23 the term “serious bodily injury” under paragraph (3) of
24 subsection (h) of Section 1365 of Title 18 of the United States
25 Code.

26 (I) This part does not restrict or limit the rights, procedures,
27 and remedies available under the Constitution, the federal
28 Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et
29 seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.
30 Sec. 794 et seq.), or other federal law protecting the rights of
31 pupils with disabilities, except that before the filing of a civil
32 action under that law seeking relief that is also available under
33 this part, the procedures under subdivisions (f) and (g) shall be
34 exhausted to the same extent as would be required had the action
35 been brought under this part.

36 SEC. 215. Section 56520 of the Education Code is amended
37 to read:

38 56520. (a) The Legislature finds and declares all of the
39 following:

1 (1) That the state has continually sought to provide an
2 appropriate and meaningful educational program in a safe and
3 healthy environment for all children regardless of possible
4 physical, mental, or emotionally disabling conditions.

5 (2) That teachers of ~~children with special needs~~ *pupils with*
6 *disabilities* require training and guidance that provides positive
7 ways for working successfully with children who have
8 difficulties conforming to acceptable behavioral patterns in order
9 to provide an environment in which learning can occur.

10 (3) That procedures for the elimination of maladaptive
11 behaviors shall not include those deemed unacceptable under
12 Section 49001 or those that cause pain or trauma.

13 (b) It is the intent of the Legislature:

14 (1) That when behavioral interventions are used, they be used
15 in consideration of the pupil's physical freedom and social
16 interaction, be administered in a manner that respects human
17 dignity and personal privacy, and that ensure a pupil's right to
18 placement in the least restrictive educational environment.

19 (2) That behavioral management plans be developed and used,
20 to the extent possible, in a consistent manner when the pupil is
21 also the responsibility of another agency for residential care or
22 related services.

23 (3) That a statewide study be conducted of the use of
24 behavioral interventions with California ~~individuals with~~
25 ~~exceptional needs~~ *pupils with disabilities* receiving special
26 education and related services.

27 (4) That training programs be developed and implemented in
28 institutions of higher education that train teachers and that
29 in-service training programs be made available as necessary in
30 school districts and county offices of education to assure that
31 adequately trained staff are available to work effectively with the
32 behavioral intervention needs of ~~individuals with exceptional~~
33 ~~needs~~ *pupils with disabilities*.

34 SEC. 216. Section 56521 of the Education Code is amended
35 to read:

36 56521. (a) This chapter applies to any ~~individual with~~
37 ~~exceptional needs~~ *pupil with a disability* who is in a public
38 school program, including a state school for the disabled
39 pursuant to Part 32 (commencing with Section 59000), or who is

1 placed in a nonpublic school program pursuant to Sections 56365
2 to 56366.5, inclusive.

3 (b) The Superintendent of ~~Public Instruction~~ shall monitor and
4 supervise the implementation of this chapter.

5 *SEC. 217. Section 56523 of the Education Code is amended*
6 *to read:*

7 56523. (a) On or before September 1, 1992, the
8 Superintendent of ~~Public Instruction~~ shall develop and the State
9 Board of Education shall adopt regulations governing the use of
10 behavioral interventions with ~~individuals with exceptional needs~~
11 *pupils with disabilities* receiving special education and related
12 services.

13 (b) The regulations shall do all of the following:

14 (1) Specify the types of positive behavioral interventions
15 which may be utilized and specify that interventions which cause
16 pain or trauma are prohibited.

17 (2) Require that, if appropriate, the ~~pupil's~~ individual
18 education ~~plan~~ *program of the pupil* includes a description of the
19 positive behavioral interventions to be utilized which
20 accomplishes the following:

21 (A) Assesses the appropriateness of positive interventions.

22 (B) Assures the pupil's physical freedom, social interaction,
23 and individual choices.

24 (C) Respects the pupil's human dignity and personal privacy.

25 (D) Assures the pupil's placement in the least restrictive
26 environment.

27 (E) Includes the method of measuring the effectiveness of the
28 interventions.

29 (F) Includes a timeline for the regular and frequent review of
30 the pupil's progress.

31 (3) Specify standards governing the application of restrictive
32 behavioral interventions in the case of emergencies. These
33 emergencies must pose a clear and present danger of serious
34 physical harm to the pupil or others. These standards shall
35 include:

36 (A) The definition of an emergency.

37 (B) The types of behavioral interventions that may be utilized
38 in an emergency.

39 (C) The duration of the intervention which shall not be longer
40 than is necessary to contain the dangerous behavior.

(D) A process and timeline for the convening of an individual education plan meeting to evaluate the application of the emergency intervention and adjust the pupil's individual education plan in a manner designed to reduce or eliminate the negative behavior through positive programming.

(E) A process for reporting annually to the ~~State Department of Education~~ department and the Advisory Commission on Special Education the number of emergency interventions applied under this chapter.

SEC. 218. Section 56601 of the Education Code is amended to read:

56601. (a) Each special education local plan area shall submit to the ~~superintendent~~ Superintendent at least annually information, in a form and manner prescribed by the ~~superintendent~~ Superintendent and developed in consultation with the special education local plan areas, in order for the ~~superintendent~~ Superintendent to carry out the evaluation responsibilities pursuant to Section 56602. This information shall include other statistical data, program information, and fiscal information that the ~~superintendent~~ Superintendent may require. The ~~superintendent~~ Superintendent shall use this information to answer questions from the Legislature and other state and federal agencies on program, policy, and fiscal issues of statewide interest.

(b) In order to assist the state in evaluating the effectiveness of special education programs, including transition and work experience programs, the ~~superintendent~~ Superintendent is authorized to collect and utilize social security numbers of ~~individuals with exceptional needs~~ pupils with disabilities as pupil identification numbers beginning in the 1993–94 fiscal year and phased in over a two-year period. In a situation where a social security number is not available, the ~~superintendent~~ Superintendent shall assign another ~~student~~ pupil identification number for purposes of evaluating special education programs and related services. The ~~superintendent~~ Superintendent shall not disclose personally identifiable, individual pupil records to any person, institution, agency, or organization except as authorized by Section 1232g of Title 20 of the United States Code and Part 99 of Title 34 of the Code of Federal Regulations.

1 *SEC. 219. Section 56836.16 of the Education Code is*
2 *amended to read:*

3 56836.16. (a) For the 1998–99 fiscal year and each fiscal
4 year thereafter, the ~~superintendent~~ *Superintendent* shall apportion
5 to each school district and county superintendent providing
6 programs pursuant to Article 5 (commencing with Section
7 56155) of Chapter 2 an amount equal to the difference, if any,
8 between (1) the costs of master contracts with nonpublic,
9 nonsectarian schools and agencies to provide special education
10 instruction, designated instruction and services, or both, to pupils
11 in licensed children’s institutions, foster family homes,
12 residential medical facilities, and other similar facilities funded
13 under this chapter, plus the costs of special education instruction,
14 ~~designated instruction and services~~ *related services*, or both,
15 provided directly by a school district with less than 3,000 average
16 daily attendance, to pupils who reside in a skilled nursing
17 facility, and (2) the state income received by the district or
18 county superintendent for providing these programs. The sum of
19 the excess cost, plus any state or federal income for these
20 programs, may not exceed the cost of master contracts with
21 nonpublic, nonsectarian schools and agencies to provide special
22 education and designated instruction and services for these
23 pupils, nor may it exceed the cost of providing special education
24 instruction, designated instruction and services to pupils who
25 reside in a skilled nursing facility, as determined by the
26 ~~superintendent~~ *Superintendent*.

27 (b) The cost of master contracts with nonpublic, nonsectarian
28 schools and agencies, or the cost of providing special education
29 instruction, ~~designated instruction and services~~ *or related*
30 *services* to pupils who reside in a skilled nursing facility, that a
31 school district or county office of education reports under this
32 section may not include any of the following costs that a school
33 district, county office of education, or special education local
34 plan area may incur:

35 (1) Administrative or indirect costs for the local educational
36 agency.

37 (2) Direct support costs for the local educational agency.

38 (3) Transportation costs provided either directly, or through a
39 nonpublic, nonsectarian school or agency master contract or
40 individual services agreement for use of services or equipment

1 owned, leased, or contracted, by a school district, special
2 education local plan area, or county office of education for any
3 pupils enrolled in nonpublic, nonsectarian schools or agencies,
4 unless provided directly or subcontracted by that nonpublic,
5 nonsectarian school or agency pursuant to subdivisions (a) and
6 (b) of Section 56366.

7 (4) Costs for services routinely provided by the school district
8 or county office of education including all of the following,
9 unless the board grants a waiver under Section 56101:

10 (A) School psychologist services, other than those described in
11 Sections 56324 and 56363 and included in a master contract and
12 individual services agreement under subdivision (a) of Section
13 56366, and other than those provided directly by a school district
14 pursuant to the individualized education program of a pupil
15 residing in a skilled nursing facility.

16 (B) School nurse services, other than those described in
17 Sections 49423.5, 56324, and 56363 and included in a master
18 contract and individual services agreement under subdivision (a)
19 of Section 56366, and other than those provided directly by a
20 school district pursuant to the individualized education program
21 of a pupil residing in a skilled nursing facility.

22 (C) Language, speech, and hearing services, other than those
23 included in a master contract and individual services agreement
24 under subdivision (a) of Section 56366, and other than those
25 provided directly by a school district pursuant to the
26 individualized education program of a pupil residing in a skilled
27 nursing facility.

28 (D) Modified, specialized, or adapted physical education
29 services other than those included in a master contract and
30 individual services agreement under subdivision (a) of Section
31 56366, and other than those provided directly by a school district
32 pursuant to the individualized education program of a pupil
33 residing in a skilled nursing facility.

34 (E) Other services not specified by a pupil's individualized
35 education program or funded by the state on a caseload basis.

36 (5) Costs for nonspecial education programs or settings,
37 including those provided for ~~individuals with exceptional needs~~
38 *pupils with disabilities* between the ages of birth and five years,
39 inclusive, pursuant to Sections 56431 and 56441.8.

(6) Costs for nonpublic, nonsectarian school or agency placements outside of the state, unless placement of the pupil is done pursuant to subdivisions (e) and (f) of Section 56365.

(7) Costs for related nonpublic, nonsectarian school pupil ~~assessments~~ *evaluation* by a school psychologist or school nurse pursuant to Sections 56320 and 56324.

(8) Costs for services that the nonpublic, nonsectarian school or agency is not certified to provide.

(9) Costs for services provided by personnel who do not meet the requirements specified in subdivision (k) of Section 56366.1.

(10) Costs for services provided by public school employees, unless those services are provided pursuant to the individualized education program of a pupil residing in a skilled nursing facility.

(c) A nonpublic, nonsectarian school or agency shall not claim and is not entitled to receive reimbursement for attendance, unless the site where the pupil is receiving special education or designated instruction and services is certified.

(d) This section shall become inoperative on June 30, 2004, and, as of July 1, 2006, is repealed, unless a later enacted statute that becomes operative on or before July 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 220. Section 56836.17 of the Education Code is amended to read:

56836.17. (a) The ~~superintendent~~ *Superintendent* may reimburse each school district and county office of education providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 for ~~assessment~~ *evaluation* and identification costs for pupils who reside in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities who are placed in state-certified nonpublic, nonsectarian schools. The ~~superintendent~~ *Superintendent* may also reimburse each school district and county office of education for ~~assessment~~ *evaluation* and identification costs for pupils who reside in a skilled nursing facility and are served directly by a school district with less than 3,000 average daily attendance.

(b) Actual costs under this section shall not include either administrative or indirect costs, or any proration of support costs.

1 (c) The total amount reimbursed statewide under this section
2 shall not exceed the amount appropriated for these purposes in
3 any fiscal year. If the ~~superintendent~~ *Superintendent* determines
4 that this amount is insufficient to reimburse all claims, the
5 ~~superintendent~~ *Superintendent* shall prorate the deficiency among
6 all school districts or county offices of education submitting
7 claims.

8 (d) This section shall become inoperative on June 30, 2004,
9 and, as of July 1, 2006, is repealed, unless a later enacted statute
10 that becomes operative on or before July 1, 2006, deletes or
11 extends the dates on which it becomes inoperative and is
12 repealed.

13 *SEC. 221. Section 56836.18 of the Education Code is*
14 *amended to read:*

15 56836.18. (a) The ~~superintendent~~ *Superintendent* shall
16 establish and maintain an emergency fund for the purpose of
17 providing relief to special education local plan areas when a
18 licensed children's institution, foster family home, residential
19 medical facility, or other similar facility serving ~~individuals with~~
20 ~~exceptional needs~~ *pupils with disabilities* opens or expands in a
21 special education local plan area during the course of the school
22 year which impacts the special education local plan area, or when
23 a pupil is placed in a facility for which no public or state-certified
24 nonpublic program exists within the special education local plan
25 area in which the pupil's individualized education program can
26 be implemented during the course of the school year and impacts
27 the educational program.

28 (b) The special education local plan area in which the
29 impaction occurs shall be responsible for submitting a written
30 request to the ~~superintendent~~ *Superintendent* for emergency
31 funding. The written request shall contain, at a minimum, all of
32 the following:

33 (1) Specific information on the new or expanded licensed
34 children's institution, foster family home, residential medical
35 facility, or other similar facility described in subdivision (a),
36 including information on the new unserved or underserved pupils
37 residing in the facility, or specific information relating to the new
38 unserved or underserved pupils residing in those facilities.

39 (2) The identification of the steps undertaken demonstrating
40 that no public special education program exists within the special

1 education local plan area capable of programmatically meeting
2 the needs of the identified pupils.

3 (3) A plan from the special education local plan area
4 describing the services to be provided.

5 (c) The ~~superintendent~~ *Superintendent* shall approve, modify,
6 or disapprove the written request for emergency funding within
7 30 days of the receipt of the written request and shall notify the
8 special education local plan area administrator, in writing, of the
9 final decision.

10 (d) It is the intent of the Legislature that appropriations
11 necessary to fund these emergency situations shall be included in
12 the Budget Act for each fiscal year.

13 *SEC. 222. Section 56836.20 of the Education Code is*
14 *amended to read:*

15 56836.20. (a) The cost of master contracts with nonpublic,
16 nonsectarian schools and agencies that a special education local
17 plan area enters into shall not include any of the following costs
18 that a special education local plan area may incur:

19 (1) Administrative or indirect costs of the special education
20 local plan area.

21 (2) Direct support costs for the special education local plan
22 area.

23 (3) Transportation costs provided either directly, or through a
24 nonpublic, nonsectarian school or agency contract for use of
25 services or equipment owned, leased, or contracted, by a special
26 education local plan area for any pupils enrolled in nonpublic,
27 nonsectarian schools or agencies, unless provided directly or
28 subcontracted by that nonpublic, nonsectarian school or agency
29 pursuant to subdivisions (a) and (b) of Section 56366.

30 (4) Costs for services routinely provided by the special
31 education local plan area including the following, unless the
32 board grants a waiver under Section 56101:

33 (A) School psychologist services other than those described in
34 Sections 56324 and 56363 and included in a master contract and
35 individual services agreement under subdivision (a) of Section
36 56366.

37 (B) School nurse services other than those described in
38 Sections 49423.5, 56324, and 56363 and included in a master
39 contract and individual services agreement under subdivision (a)
40 of Section 56366.

1 (C) Language, speech, and hearing services other than those
2 included in a master contract and individual services agreement
3 under subdivision (a) of Section 56366.

4 (D) Modified, specialized, or adapted physical education
5 services other than those included in a master contract and
6 individual services agreement under subdivision (a) of Section
7 56366.

8 (E) Other services not specified by a pupil's individualized
9 education program or funded by the state on a caseload basis.

10 (5) Costs for nonspecial education programs or settings,
11 including those provided for ~~individuals with exceptional needs~~
12 *pupils with disabilities* between the ages of birth and five years,
13 inclusive, pursuant to Sections 56431 and 56441.8.

14 (6) Costs for nonpublic, nonsectarian school or agency
15 placements outside of the state, unless the board has granted a
16 waiver pursuant to subdivisions (e) and (f) of Section 56365.

17 (7) Costs for related nonpublic, nonsectarian school pupil
18 ~~assessments~~ *evaluations* by a school psychologist or school nurse
19 pursuant to Sections 56320 and 56324.

20 (8) Costs for services that the nonpublic, nonsectarian school
21 or agency is not certified to provide.

22 (9) Costs for services provided by personnel who do not meet
23 the requirements specified in subdivision (l) of Section 56366.1.

24 (10) Costs for services provided by public school employees.

25 (b) A nonpublic, nonsectarian school or agency shall not claim
26 and is not entitled to receive reimbursement for attendance,
27 unless the site where the pupil is receiving special education or
28 designated instruction and services is certified.

29 *SEC. 223. Section 56836.23 of the Education Code is*
30 *amended to read:*

31 56836.23. Funds for regionalized operations and services and
32 the direct instructional support of program specialists shall be
33 apportioned to the special education local plan areas. As a
34 condition to receiving those funds, the special education local
35 plan area shall ensure that all functions listed below are
36 performed in accordance with the description set forth in its local
37 plan adopted pursuant to Section 56205:

38 (a) Coordination of the special education local plan area and
39 the implementation of the local plan.

1 (b) Coordinated system of identification and ~~assessment~~
2 *evaluation*.

3 (c) Coordinated system of procedural safeguards.

4 (d) Coordinated system of staff development and parent and
5 guardian education.

6 (e) Coordinated system of curriculum development and
7 alignment with the core curriculum.

8 (f) Coordinated system of internal program review, evaluation
9 of the effectiveness of the local plan, and implementation of a
10 local plan accountability mechanism.

11 (g) Coordinated system of data collection and management.

12 (h) Coordination of interagency agreements.

13 (i) Coordination of services to medical facilities.

14 (j) Coordination of services to licensed children's institutions
15 and foster family homes.

16 (k) Preparation and transmission of required special education
17 local plan area reports.

18 (l) Fiscal and logistical support of the community advisory
19 committee.

20 (m) Coordination of transportation services for ~~individuals~~
21 ~~with exceptional needs~~ *pupils with disabilities*.

22 (n) Coordination of career and vocational education and
23 transition services.

24 (o) Assurance of full educational opportunity.

25 (p) Fiscal administration and the allocation of state and federal
26 funds pursuant to Section 56836.01.

27 (q) Direct instructional program support that may be provided
28 by program specialists in accordance with Section 56368.

29 *SEC. 224. Section 56838 of the Education Code is amended*
30 *to read:*

31 56838. In each fiscal year for which federal funds are
32 received by the state pursuant to Section 1419 of Title 20 of the
33 United States Code for ~~individuals with exceptional needs~~ *pupils*
34 *with disabilities* between the ages of 3 and 5, inclusive, the
35 portion of funds available for local entitlements shall be allocated
36 through the annual Budget Act in the following manner:

37 (a) The district, special education local plan area, or county
38 office shall receive a base entitlement calculated pursuant to its
39 share of the federal fiscal year 1997 state grant for this program.

(b) Of the remaining federal funds for local entitlements beyond the amount received for the federal fiscal year 1997, 85 percent shall be allocated to districts, special education local plan areas, and county offices on the basis of the relative number of pupils enrolled in public and private elementary and secondary schools within the jurisdiction of the district, special education local plan area, or county office; and 15 percent shall be allocated to districts, special education local plan areas, and county offices in accordance with the relative number of children in the jurisdiction living in poverty, as determined by the superintendent Superintendent.

SEC. 225. *Section 56841 of the Education Code is amended to read:*

56841. (a) Federal funds available through Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and appropriated through the annual Budget Act shall only be used as follows:

- (1) For the excess costs of special education.
- (2) To supplement state, local, and other federal funds and not supplant those funds, *and to not supplant federal funding based on state requirements to fund increases in pupil attendance or enrollment or inflation.*

(b) Except as provided in subdivisions (c) and (d), the funds shall not be used to reduce the level of expenditures for the education of ~~individuals with exceptional needs~~ *pupils with disabilities* made by districts, special education local plan areas, and county offices from local funds below the level of those expenditures in the preceding fiscal year.

(c) Notwithstanding subdivision (b), a district, special education local plan area, or county office may reduce the level of expenditures from local funds where the reduction is attributable to the following:

- (1) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel.
- (2) A decrease in the enrollment of individuals with exceptional needs.
- (3) The termination of the obligation of the district, special education local plan area, and county office, consistent with this part, to provide a program of special education to an individual or ~~individuals with exceptional needs~~ *pupils with disabilities.*

(4) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of facilities.

(d) Notwithstanding the provisions of subdivisions (a) and (b), for any fiscal year in which the amounts appropriated by Congress for the purposes of Section 1411 of Title 20 of the United States Code exceed four billion one hundred million dollars (\$4,100,000,000), a district, special education local plan area, or county office, may reduce expenditures from local funds for the education of ~~individuals with exceptional needs~~ *pupils with disabilities* by an amount that shall not exceed 20 percent of the amount of federal funds available under Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and allocated to the district, special education local plan area, and county office which exceeds the amount of these funds received by the district, special education local plan area, or county office in the preceding fiscal year.

(e) A district, special education local plan area, or county office may reduce expenditures from local funds for the education of ~~individuals with exceptional needs~~ *pupils with disabilities* pursuant to subdivision (d) only if the ~~superintendent~~ *Superintendent* determines that the district, special education local plan area, or county office is meeting the requirements of this part and the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) regarding the education of ~~individuals with exceptional needs~~ *pupils with disabilities*.

SEC. 226. Section 56845 of the Education Code is amended to read:

56845. (a) ~~The superintendent~~ *Superintendent* may withhold, in whole or in part, state funds or federal funds allocated under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) from a district, special education local plan area, or county office after reasonable notice and opportunity for a hearing if the ~~superintendent~~ *Superintendent* finds either of the following:

(1) The district, special education local plan area, or county office failed to comply substantially with a provision of state law, federal law, or regulations governing the provision of special education and related services to ~~individuals with exceptional~~

1 ~~needs pupils with disabilities~~ which results in the failure to
2 comply substantially with corrective action orders issued by the
3 department resulting from monitoring findings or complaint
4 investigations.

5 (2) The district, special education local plan area, or county
6 office failed to implement the decision of a due process hearing
7 officer based on noncompliance with provisions of this part, the
8 implementing regulations, provisions of the *federal* Individuals
9 with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or
10 the implementing regulations, which noncompliance results in
11 the denial of, or impedes the delivery of, a free and appropriate
12 public education for ~~an individual with exceptional needs~~ *a pupil*
13 *with a disability*.

14 (b) When the ~~superintendent~~ *Superintendent* determines that a
15 district, special education local plan area, or county office made
16 substantial progress toward compliance with state law, federal
17 law, or regulations governing the provision of special education
18 and related services to ~~individuals with exceptional needs~~ *pupils*
19 *with disabilities*, the superintendent may apportion the state or
20 federal funds withheld from the district, special education local
21 plan area, or county office.

22 (c) Notwithstanding any other provision of law, state funds
23 may not be allocated to offset any federal funding intended for
24 ~~individuals with exceptional needs~~ *pupils with disabilities*, as
25 defined in Section 56026, and withheld from a local educational
26 agency due to the agency's noncompliance with state or federal
27 law.

28 (d) For purposes of this section, in order to enter into contracts
29 with one or more local education agencies to serve ~~individuals~~
30 ~~with exceptional needs~~ *pupils with disabilities* who are not being
31 served as required under this part, the department is exempt from
32 the requirements of Part 2 (commencing with Section 10100) of
33 Division 2 of the Public Contract Code and from the
34 requirements of Article 6 (commencing with Section 999) of
35 Chapter 6 of Division 4 of the Military and Veterans Code.

36 *SEC. 227. Section 56850 of the Education Code is amended*
37 *to read:*

38 56850. The purpose of the Legislature, in enacting this
39 chapter, is to recognize that ~~individuals with exceptional needs~~
40 *pupils with disabilities* of mandated schoolage, residing in

1 California's state hospitals for the developmentally disabled and
2 mentally disordered, are entitled to, under the Individuals with
3 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and the
4 Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), the same
5 access to educational programs as is provided for ~~individuals~~
6 ~~with exceptional needs~~ *pupils with disabilities* residing in our
7 communities.

8 It is the intent of the Legislature to ensure that services shall be
9 provided in the community near the individual state hospitals to
10 the maximum extent appropriate, and in the least restrictive
11 environment.

12 It is the further intent of the Legislature to ensure equal access
13 to the educational process and to a full continuum of educational
14 services for all individuals, regardless of their physical residence.

15 It is the further intent of the Legislature that educational
16 services designated for state hospital residents not eligible for
17 services mandated by the *federal* Individuals with Disabilities
18 Education Act (20 U.S.C. Sec. 1400 et seq.) shall not be reduced
19 or limited in any manner as a result of the enactment of this
20 chapter.

21 It is the further intent of the Legislature that any cooperative
22 agreements to provide educational services for state hospitals
23 shall seek to maximize federal financial participation in funding
24 these services.

25 *SEC. 228. Section 56851 of the Education Code is amended*
26 *to read:*

27 56851. (a) In developing the individualized educational
28 program for an individual residing in a state hospital who is
29 eligible for services under the Individuals with Disabilities
30 Education Act (20 U.S.C. Sec. 1400 et seq.), a state hospital shall
31 include on its interdisciplinary team a representative of the
32 district, or special education local plan area, or county office in
33 which the state hospital is located, and the individual's state
34 hospital teacher, depending on whether the state hospital is
35 otherwise working with the district, special education local plan
36 area, or county office for the provision of special education
37 programs and related services to ~~individuals with exceptional~~
38 ~~needs~~ *pupils with disabilities* residing in state hospitals.
39 However, if a district or special education local plan area that is
40 required by this section to provide a representative from the

1 district or special education local plan area does not do so, the
2 county office shall provide a representative.

3 (b) The state hospital shall reimburse the district, special
4 education local plan area, or the county office, as the case may
5 be, for the costs, including salary, of providing the representative.

6 (c) Once the individual is enrolled in the community program,
7 the educational agency providing special education shall be
8 responsible for reviewing and revising the individualized
9 education program with the participation of a representative of
10 the state hospital and the parent. The agency responsible for the
11 individualized education program shall be responsible for all
12 individual protections, including notification and due process.

13 *SEC. 229. Section 56852 of the Education Code is amended*
14 *to read:*

15 56852. In developing the individualized educational program
16 and providing all special education programs and related services
17 to ~~individuals with exceptional needs~~ *pupils with disabilities*
18 residing in the state hospitals, the state hospitals shall comply
19 with the requirements of the Individuals with Disabilities
20 Education Act (20 U.S.C. Sec. 1400 et seq.), the Rehabilitation
21 Act of 1973 (29 U.S.C. Sec. 701 et seq.), and special education
22 provisions of this part and implementing regulations. Special
23 education and related services shall be provided to each
24 individual residing in a state hospital pursuant to the
25 individualized education program for that individual.

26 *SEC. 230. Section 56853 of the Education Code is amended*
27 *to read:*

28 56853. ~~Nothing contained in this~~ *This chapter shall does not*
29 affect the continued authority of the State Departments of
30 Developmental Services and Mental Health over educational
31 programs for individuals not eligible for services under the
32 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400
33 et seq.) nor shall it affect the overall responsibility of the state
34 hospitals for the care, treatment, and safety of ~~individuals with~~
35 ~~exceptional needs~~ *pupils with disabilities* under their control. The
36 state hospitals shall continue to render appropriate and necessary
37 developmental services, health related services, psychiatric
38 services, and related services assigned to the state hospitals in the
39 local written agreements, as part of their responsibilities for the
40 care and treatment of state hospital residents.

1 Health related services shall include services provided by
2 physicians, psychiatrists, psychologists, audiologists, registered
3 nurses, social workers, physical therapists, occupational
4 therapists, psychiatric technicians, and developmental specialists,
5 and shall be the responsibility of the state hospital if the
6 ~~individual with exceptional needs~~ *pupil with disabilities* requires
7 these services while in the community program.

8 *SEC. 231. Section 56864 of the Education Code is amended*
9 *to read:*

10 56864. ~~Individuals with exceptional needs~~ *Pupils with*
11 *disabilities* residing in state hospitals shall not be included within
12 the funding calculation made pursuant to Chapter 7.2
13 (commencing with Section 56836).

14 *SEC. 232. Section 56867 of the Education Code is amended*
15 *to read:*

16 56867. (a) The State Department of Education is responsible
17 for monitoring the Department of the Youth Authority for
18 compliance with state and federal laws and regulations regarding
19 special education.

20 (b) Notwithstanding any other provision of law, the State
21 Department of Education and the California State University
22 shall enter into an interagency agreement under which the Center
23 for the Study of Correctional Education, located on the California
24 State University, San Bernardino campus, shall provide technical
25 assistance to the State Department of Education regarding
26 compliance with state and federal laws and regulations regarding
27 special education at the Department of the Youth Authority.

28 (c) The State Department of Education shall prepare the
29 interagency agreement in consultation with the California State
30 University, San Bernardino, and the superintendent of education
31 for the Department of the Youth Authority. The interagency
32 agreement shall require the center to provide all of the following
33 services to the Special Education Division of the State
34 Department of Education:

35 (1) Assistance in providing reviews and assessments of special
36 education at each schoolsite in the Department of the Youth
37 Authority.

38 (2) Assistance in drafting reports of findings for each review.

39 (3) Assistance in drafting corrective action plans, based on
40 preliminary findings of noncompliance that include specific

1 suggested outcomes to achieve compliance, and other
2 instruments conveying recommendations and suggestions
3 resulting from reviews and ~~assessments~~ *evaluations*.

4 (4) Onsite technical assistance and support to the Department
5 of the Youth Authority, as authorized by the Special Education
6 Division of the State Department of Education.

7 (5) Identifying and developing suggested draft protocols and
8 best practices for providing special education services in
9 correctional settings.

10 (6) Developing suggested draft protocols and a suggested draft
11 best practices model for providing monitoring and technical
12 assistance services for special education in youthful correctional
13 settings.

14 (7) Evaluating the training needs and priorities of educational
15 personnel serving wards with exceptional needs at the
16 Department of the Youth Authority.

17 (8) Reviewing the Department of the Youth Authority's
18 current special education local plan, policies, procedures, and
19 forms, for compliance with state and federal special education
20 law and, with the approval of the State Department of Education,
21 providing suggested revisions as necessary to provide better
22 compliance and to better reflect the best practices in a
23 correctional setting.

24 (d) Technical assistance provided pursuant to this section shall
25 reflect existing or subsequently adopted standards for state and
26 federal compliance. Reviews conducted pursuant to this section
27 shall include, but not be limited to, assessments of the following
28 special education services for wards at the Department of the
29 Youth authority with exceptional needs:

30 (1) Identification and ~~assessment~~ *evaluation* of wards with
31 exceptional needs.

32 (2) Parent notification, consent, and participation.

33 (3) Individual education ~~plan~~ *program* development and
34 content, including behavior intervention and transition plans.

35 (4) ~~Assessment~~ *Evaluation* of ward progress.

36 (5) Provision of services in the least restrictive environment
37 maximizing inclusion.

38 (6) Services to pupils who are not proficient in English.

39 (7) Observance of procedural safeguards and compliance with
40 state and federal law.

(e) Commencing no later than one year after entering into the interagency agreement specified in this section and annually thereafter until termination of the agreement, with the assistance of the center, the State Department of Education shall provide interim status reports of the services received from the center pursuant to this section to the Department of Finance and the Legislature.

(f) No later than December 1, 2006, the State Department of Education shall submit a report to the Legislature on the usefulness of the services received from the center pursuant to the interagency agreement required by this section.

(g) The interagency agreement required by this section shall be funded through an appropriation made in the annual Budget Act with federal funds made available for state agencies under Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following).

(h) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 233. Section 56875 of the Education Code is amended to read:

56875. (a) The Legislature hereby finds and declares that numerous federal and state programs make funds available for the provision of education and related services to ~~individuals with exceptional needs~~ *pupils with disabilities*. The Legislature further finds and declares that the state has not maximized the use of available federal funds for provision of such services to these ~~children~~ *pupils*. The Legislature further recognizes the need to simplify procedures for securing all available funds for services to ~~individuals with exceptional needs~~ *pupils with disabilities* and for utilizing federal financial resources to the greatest possible extent.

(b) It is the intent of the Legislature to provide local educational agencies with maximum flexibility to secure and utilize all available state and federal funds so as to enable such agencies to meet the needs of ~~individuals with exceptional needs~~ *pupils with disabilities* more effectively and efficiently. Furthermore, it is the intent of the Legislature to provide maximum federal funding to local educational agencies for the

1 provision of education and related services to ~~individuals with~~
2 ~~exceptional needs~~ *pupils with disabilities*.

3 *SEC. 234. Section 56876 of the Education Code is amended*
4 *to read:*

5 56876. On or before April 1, 1981, the *State* Department of
6 Education, the State Department of Health Services, the State
7 Department of Mental Health, the State Department of
8 Developmental Services, the State Department of Social
9 Services, the Department of Rehabilitation, the Employment
10 Development Department, the Department of the Youth
11 Authority, and the State Council on Developmental Disabilities
12 shall, in conformance with procedures established by the Office
13 of Planning and Research, submit a plan to both the Senate
14 ~~Finance~~ *Committee on Budget and Fiscal Review* and the
15 ~~Assembly Ways and Means~~ *Committee on Appropriations* that
16 shall include a timetable for implementation of this chapter,
17 including, but not limited to the following:

18 (a) A list of provisions of state regulations and laws for which
19 waivers may be granted in order that local educational agencies
20 may maximize available federal funds to provide education and
21 related services to ~~individuals with exceptional needs~~ *pupils with*
22 *disabilities* without decreasing funds available to other state and
23 local agencies.

24 (b) A list of provisions of federal law, federal regulations, or
25 both, for which it is recommended that the state seek waiver.

26 (c) A list of specific related services which shall be provided
27 by the respective departments and their political subdivisions to
28 carry out the mandate of the *federal* Individuals with Disabilities
29 Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing
30 regulations.

31 *SEC. 235. Section 56877 of the Education Code is amended*
32 *to read:*

33 56877. (a) Implementation of the funding procedures
34 established pursuant to this chapter shall commence on July 1,
35 1981.

36 (b) ~~The State Department of Education~~ *department* shall, in
37 order to implement the provisions of this chapter, do all of the
38 following:

39 (1) Provide necessary technical assistance to local educational
40 agencies.

1 (2) Establish procedures for such agencies to obtain available
2 federal funds.

3 (3) Apply for necessary waivers of federal statutes and
4 regulations governing federal education programs that provide
5 education and related services to ~~individuals with exceptional~~
6 ~~needs~~ *pupils with disabilities*.

7 (c) The State Board of Education shall grant necessary waivers
8 of applicable state laws and administrative regulations relating to
9 special education programs to participating local educational
10 agencies.

11 *SEC. 236. Section 56878 of the Education Code is amended*
12 *to read:*

13 56878. If necessary to simplify procedures for securing all
14 available funds for services to ~~individuals with exceptional needs~~
15 *pupils with disabilities* and for utilizing federal financial
16 resources to the greatest possible extent, the Health and Welfare
17 Agency, at the request of the State Department of Health
18 Services, the State Department of Mental Health, the State
19 Department of Developmental Services, the State Department of
20 Social Services, the Department of Rehabilitation, or the
21 Employment Development Department; and the Youth and Adult
22 Corrections Agency, at the request of the Department of the
23 Youth Authority, may grant waivers of state laws and regulations
24 for which they have administrative responsibility. Waivers
25 granted pursuant to this section may be only for those laws and
26 regulations identified in the plan submitted to the Legislature
27 pursuant to Section 56876, and only when necessary to
28 implement this part.

29 *SEC. 237. Section 56879 of the Education Code is amended*
30 *to read:*

31 56879. Based upon the plan submitted pursuant to Section
32 56876, the State Department of Health Services, the State
33 Department of Mental Health, the State Department of
34 Developmental Services, the State Department of Social
35 Services, the Department of Rehabilitation, the Employment
36 Development Department, and the Department of the Youth
37 Authority shall, in order to implement the provisions of this
38 chapter, do the following:

39 (1) Grant necessary waivers of applicable state laws and
40 administrative regulations under their respective jurisdictions to

1 local educational agencies and other agencies, and issue such
2 other administrative regulations as are necessary.

3 (2) Apply for necessary waivers of federal statutes and
4 regulations governing federal programs which provide services to
5 ~~individuals with exceptional needs~~ *pupils with disabilities* and
6 which are under their respective jurisdictions.

7 *SEC. 238. Section 56881 of the Education Code is amended*
8 *to read:*

9 56881. (a) The Office of Planning and Research shall
10 establish procedures for development and review of state agency
11 plans for funds available under all federal programs which may
12 provide services to ~~individuals with exceptional needs~~ *pupils*
13 *with disabilities* and which are within the jurisdictions of the
14 State Department of Education, the State Department of Health
15 Services, the State Department of Mental Health, the State
16 Department of Developmental Services, the State Department of
17 Social Services, the Department of Rehabilitation, the
18 Employment Development Department, the Department of the
19 Youth Authority, and the State Council on Developmental
20 Disabilities. Results of the review shall be transmitted to the state
21 agency preparing the plan and to the responsible cabinet level
22 agency to make a determination if the plan shall be changed.
23 Such planning procedures and review shall assure coordination
24 between state agencies and shall assure that applicable plans
25 enable local education agencies to secure maximum available
26 federal funding, without decreasing funds available to other state
27 and local agencies, under each of the following federal programs:

28 (1) Education for All Handicapped Children as provided under
29 P.L. 91-230, Education of the Handicapped Act, Title VI, Part B,
30 as amended by P.L. 93-380 and by P.L. 94-142.

31 (2) Medical Assistance (Medicaid), as provided under the
32 Social Security Act of 1935, Title XIX, as amended.

33 (3) Early and Periodic Screening, Diagnosis and Treatment as
34 provided under P.L. 74-271, Social Security Act of 1935, Title
35 XIX as amended, Section 1905 (a)(4)(B).

36 (4) Developmental Disabilities Services as provided under
37 P.L. 91-517, the Developmental Disabilities Services and
38 Construction Act of 1970, as amended by P.L. 94-103 and the
39 Developmental Disabilities Assistance and Bill of Rights Act, as

1 amended by P.L. 95-602, Amendments to the Rehabilitation Act
2 of 1973.

3 (5) Social Services as provided under P.L. 74-271, Social
4 Security Act of 1935, Title XX, as amended by P.L. 93-647, P.L.
5 94-401, P.L. 94-566, and P.L. 95-171.

6 (6) Crippled Children's Services as provided under P.L.
7 74-271, Social Security Act of 1935, Title V, Section 504, as
8 amended.

9 (7) Vocational Training and Counseling Services as provided
10 under P.L. 94-482, Vocational Educational Act; P.L. 93-112, as
11 amended by P.L. 93-516, the Rehabilitation Act of 1973; and
12 P.L. 93-203, the Comprehensive Employment and Training Act,
13 as amended.

14 (8) Maternal and Child Health Services, as provided under
15 P.L. 74-271, Social Security Act of 1935, Title V, Section 503, as
16 amended.

17 (9) Supplementary Security Income, Disabled Children's
18 Program, as provided under P.L. 74-271, Social Security Act of
19 1935, Title XVI, Section 1615(b) as amended by P.L. 94-566.

20 (b) In addition to the programs enumerated in subdivision (a),
21 any other programs under which the following services may be
22 provided to ~~individuals with exceptional needs~~ *pupils with*
23 *disabilities* shall be subject to the review procedure specified in
24 subdivision (a) as conducted by the Office of Planning and
25 Research:

26 (1) Screening and identification.

27 (2) ~~Assessment~~ *Evaluation* and diagnosis.

28 (3) Health related services, including, but not limited to,
29 speech pathology and audiological services, physical therapy,
30 occupational therapy, and vision services and therapy.

31 (4) Psychological counseling.

32 (5) Mental health services.

33 (6) Vocationally related services.

34 (7) Social services.

35 (8) Transportation services.

36 (9) Other services necessary to assist ~~individuals with~~
37 ~~exceptional needs~~ *pupils with disabilities* in benefitting from
38 their education.

39 *SEC. 239. Section 56883 of the Education Code is amended*
40 *to read:*

56883. (a) On or before July 1, 1981, the *State* Department of Education shall, after consultation with the Office of Planning and Research and the agencies listed in Section 56876, and based upon the plan required in Section 56876, issue guidelines to local educational agencies, for implementation of the provisions of this chapter.

(b) ~~Such~~ Those guidelines shall include, but not be limited to, the following:

(1) Identification of sources of funds available under all state and federal programs which may provide education and related services to ~~individuals with exceptional needs~~ *pupils with disabilities* and for which local educational agencies and other applicable agencies are eligible.

(2) Identification of all statutes and regulations applicable to programs for ~~individuals with exceptional needs~~ *pupils with disabilities* under the jurisdictions of the *State* Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, and the Department of the Youth Authority, which may be waived pursuant to subdivisions (b), (c), and (d) of Section 56877.

SEC. 240. *Section 56884 of the Education Code is amended to read:*

56884. To assist in implementation of the provisions of this chapter, the *State* Department of Education and state agencies listed in Section 56876 shall, by April 1, 1981, after consultation with representatives of their respective local administering agencies, negotiate and enter into interagency agreements to help promote coordination of services for ~~individuals with exceptional needs~~ *pupils with disabilities*. The interagency agreements shall include, but not be limited to, the definition of each agency's roles and responsibilities for serving ~~individuals with exceptional needs~~ *pupils with disabilities*.

SEC. 241. *Section 56885 of the Education Code is amended to read:*

56885. The Department of Finance shall, after consultation with appropriate state agencies, ascertain the amounts of funds, if

1 any, that should be transferred between state agencies in order to
2 achieve the purposes of ~~the bill~~ *this part*.

3 Any savings that may occur to any program due to maximized
4 use of federal funds or services to ~~individuals with exceptional~~
5 ~~needs~~ *pupils with disabilities* as provided in this article shall be
6 utilized to defer projected increased costs to meet full mandates
7 of the *federal* Individuals with Disabilities Education Act (20
8 U.S.C. Sec. 1400 et seq.).

9 *SEC. 242. If the Commission on State Mandates determines*
10 *that this act contains costs mandated by the state, reimbursement*
11 *to local agencies and school districts for those costs shall be*
12 *made pursuant to Part 7 (commencing with Section 17500) of*
13 *Division 4 of Title 2 of the Government Code.*